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SUPREME COURT OF THE UNITED STATES.

No. 10.

HENRY MILLER'S HEIRS AND DEVISEES, COMPLAINANTS AND APPELLANTS,

VERSUS

JACOB AND ISAAC McINTYRE.

ON APPEAL FROM THE CIRCUIT COURT U. S. FOR THE KENTUCKY DISTRICT.

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Pleas held before the honorable Thomas Todd and Robert Trimble, Judges of the seventh circuit court of the United States of America, in and for the Kentucky district, at the capitol in the town of Frankfort, at the May term of the court aforesaid, and year one thousand eight hundred and twenty-three.

Be it remembered, that heretofore, to wit, on the 9th day of May, in the year of our Lord one thousand eight hundred and eight, came Henry Miller's heirs and devisees, by their attorney, into the clerk's office of the court aforesaid, and filed their bill in chancery against Laban Shipp and others, which is in the words and figures following, to wit:

To the honorable the Judges of the circuit court of the United States for the Kentucky district, sitting in chancery: humbly complaining, shew unto your honors, your orators and oratrixes, Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffitt, and Hannah his wife, John Estell, and Martha his wife, and Henry Miller, an infant under the age of twenty-one years, by the said Samuel Miller, his next friend, all of them citizens of the State of Virginia: that, on the 10th of December, 1782, Henry Miller, now deceased, made an entry by virtue of a Treasury warrant for 1,687 acres of land, to an attested copy of which, hereto annexed as part of this bill, they beg leave to refer: that afterwards, to wit, on the day of , in the year 178 , the said Miller departed this life, having first duly made and published his last will and testament, (a copy of which is hereto annexed as part of this bill,) whereby he devised the said land to your orators and oratrixes, Samuel Miller, Rachael Lewis, James Miller, William Miller, Hannah Moffitt, Martha Estell, and Henry Miller, who are also his children and heirs at law: that, on the day of , in the year , during the minority of several of them, your orators and oratrixes proceeded to have the said entry surveyed according to the terms of the location, and agreeably to law, and afterwards procured a grant; which will appear by the said survey and grant, to which they beg leave to refer. They aver that the said entry is special and precise, in conformity to law, and that it has been regularly and legally pursued into grant; and your orators and oratrixes further shew, that they had hoped to be able quietly and peaceably to enjoy the property to which they are entitled as aforesaid, but a certain Laban Shipp, Jacob Spears, Hugh Wright, Alexander Wright, William Hildridge, Samuel Black, William Black, Samuel Dillon, John Barnet, Morris Morris, William Hibler, Joseph Hibler, James Hughes, Herbert M. Brenham, and Victor Larimer, citizens of the State of Kentucky, (all of whom your orators and oratrixes pray may be made defendants hereto,) setting up claim to the land belonging to your orators and oratrixes as

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aforesaid, under patents prior in date to theirs, but fraudulently and surreptitiously obtained, have taken possession of the said land, and refused to yield it up or convey the legal title thereto to your orators and oratrixes: that they are ignorant of the particular claim under which each of the defendants has settled and asserts his right; but they expressly charge that the whole of their claims are void and illegal, surveyed contrary to the locations, and surveyed fraudulently, so as to interfere with their better equitable right. In tender consideration whereof, &c. To the end, therefore, that the said defendants may severally, upon their corporal oaths, make as full answer to the allegations of this bill as if they were herein again repeated in the form of interrogatory; that they may set forth and discover their respective titles to the said land; that they may be decreed to yield possession thereof, and convey the legal title thereto, to your orators and oratrixes; that they may also be compelled to account with them for the rents and profits made on the said land; and that they may have such other and further relief as shall be deemed equitable.

May it please your honors, &c.

H. CLAY, *for complainants.*

Exhibits referred to in the bill.

11*th December*, 1782. Henry Miller enters 1,687 acres of land on a Treasury warrant No. 6,168, adjoining Chapman Aston on the west, and Israel Christian on the north, beginning at Christian's northwest corner, running thence west 200 poles, thence north parallel with Aston's line until an east course to Aston's line will include the quantity.

A copy. Teste,

RICHARD HIGGINS, *S. F. C.*

The above is a true copy from the original entry book, letter for letter, and word for word, with the points as contained in the entry.

Given under my hand this 20th August, 1811.

R. HIGGINS, *S. F. C.*

In the name of God, amen. I, Henry Miller, of Augusta county, and State of Virginia, being sick and weak, but of sound mind, do publish and make this my last will and testament in manner and form following, to wit: First of all, it is my will and desire that all my just debts be paid. Secondly, I will and bequeath unto my beloved wife Hannah Miller one hundred and fifty pounds per annum, for the support of her and my three youngest children whilst they are under the years of maturity; also the mansion house, and garden, and household furniture, during her natural lifetime, if she remains a widow, otherwise, if she marries, to have none of the before mentioned privileges; and also two negroes, namely, George, a young fellow, and Tamer, a young wench; also the English cow and her calf, which is two years old, and a sufficient quantity of hay and pasturage for the same; also a good riding horse, and food sufficient for the keeping of him. I also will and bequeath unto my son Samuel Miller the plantation known by the name of the Spungerick plantation. I also will and bequeath unto my son James Miller the plantation whereon my paper-mill stands, 400 acres to be in said plantation, to run up the creek and each side thereof, and as low down the creek as will be required to make the above mentioned 400 acres. I also will and bequeath unto my son William Miller the plantation lying on

the long glade, which I purchased of Edward Erwin, including the lands which I purchased of Joseph Henderson, which joins the before tract purchased of Edward Erwin. I also will the iron-works, and all other lands belonging to me that has not been mentioned before, viz: the lands which I give to my three sons, Samuel, James, and William, to be sold at the expiration of five years, and the money arising from the sale thereof to be equally divided amongst all my children, after keeping as much as will amount to a sum sufficient to furnish the sum of one hundred and fifty pounds per annum for the use of my beloved wife, as before mentioned, which is Rachael Lewis, Samuel Miller, James Miller, William Miller, Hannah Miller, Martha Miller, and Henry Miller. I will unto my son Henry, exclusive of an equal division of the money arising from the sale of my lands, a sum of money equal to one-third of the value of the three plantations willed unto my sons Samuel, James, and William, at this time, which must be valued; which sum of money to him now willed must be taken out of the sales before the division is made. It is my will and desire that my sons William and Henry shall have a good English education, and after that I wish my two sons William and Henry to be put to some good mechanic, to learn the art and mystery of his occupation; it to be to such trades as they shall choose. I also desire that the iron-works shall be carried on by my son Samuel Miller until the expiration of the above five years, and the profits arising from the same during that time to be equally divided amongst my children, allowing my son and his family's support from the profits; the negroes belonging to me, and all other personal estate, to remain in the possession of my son Samuel until the five years above mentioned is expired, and then to be sold, and the money divided equally amongst all my children, except to my daughter Hannah I will a negro child named Milly, and unto my daughter Martha I will a negro child named Nancy. Any buildings that my son Samuel shall think proper to make on the said lands that is to be sold, or repairs, to be at the expense of all my children. My son Samuel is to be allowed a reasonable salary for the management of the business that is to be done on the behalf of my children during the time he shall carry on the iron-works. If any of my children should die before they arrive to the age of twenty-one years, and have no heir or heirs, then their estate to be divided amongst my other children equally; and at the death of my wife, the negroes George and Tamer, and her increase, to be sold and divided as the other of my personal estate. I give to my children and their heirs for ever the things before mentioned. I now appoint my son Samuel Miller, John Lewis, and my son James Miller, to be my executors of my last will and testament, and revoke all deeds heretofore made.

In witness whereof, I have hereunto set my hand and seal, this 9th day of March, one thousand seven hundred and ninety-six.

I desire that when the iron-works and other lands are sold, that my executors shall provide a comfortable house and a good garden for my wife, at the expense of my children, for her during her life, if she remains a widow, as before mentioned.

HENRY MILLER. [SEAL.]

In presence of
SAMUEL FORSYTH.
JEREMIAH WEBB.
SAMUEL MILLER.
JAMES MILLER.

At a district court, holden at Staunton, April term, 1796, this last will and testament of Henry Miller, deceased, was produced in court by Samuel Miller and John Lewis, two of the executors therein named; and, being proved by the oaths of Samuel Forsythe and Jeremiah Webb, two of the witnesses thereto, is ordered to be recorded; and, on motion of the said executors, who made oath according to law, and together with George Crawford, Archibald Stewart, and John Poage, Robert Gratton, William McPheters, Alexander St. Clair, Peter Heiskill, and Jacob Kenney, their securities, entered into and acknowledged their bond in the penalty of eighty thousand pounds, conditioned as the law directs. Certificate is granted them for obtaining a probate in due form of law; liberty being reserved for the other executor in the said will named to join in the probate when he shall think fit. And it is ordered that Alexander Robertson, Samuel Forsythe, David Bell, and John Gamble, or any three of them, being first sworn, do appraise, in current money, the slaves and personal estate of the decedent, and return the appraisement to the court according to law.

Teste, JOHN COALTER, *C. S. D. C.*

VIRGINIA, *Augusta county, to wit:*

I, Chesley Kinney, clerk of the superior court of law holden for the county of Augusta, and late clerk of the late district court holden at Staunton, do hereby certify that the foregoing is a true copy of the last will and testament of Henry Miller, deceased, duly proven and admitted to record in the late district court aforesaid.

In testimony whereof, I have hereunto set my hand, and caused the seal of my office to be hereunto affixed, this 28th day of October, 1811, and in the 36th year of the Commonwealth.

[L. S.] CHESLEY KINNEY.

VIRGINIA, *to wit:*

I, Archibald Stewart, one of the Judges of the general court of this Commonwealth, and Judge of the eighth circuit, do hereby certify that the foregoing attestation of Chesley Kinney, clerk of the superior court of law holden at Staunton for the county of Augusta, and late clerk of the late district court holden at the same place, is in due form; and that full faith and credit is due to all his acts and deeds as such in every court within the United States. Given under my hand the 28th day of October, 1811.

ARCHIBALD STEWART.

Upon which bill the following subpœna in chancery issued, to wit:

The United States of America to the Marshal of the Kentucky district, greeting:

You are hereby commanded to summon Laban Shipp, Jacob Spears, Hugh Wright, Alexander Wright, William Hildridge, Samuel Black, William Black, Samuel Dillon, John Barnett, Morris Morris, William Hibler, Joseph Hibler, James Hughes, Herbert M. Brenham, and Victor Larimore, citizens of the State of Kentucky, to appear before the Judges of our seventh circuit court of the United States in and for the Kentucky district, at the capitol in Frankfort, on the second Monday in July next, being the 5th day of the term, which commenced in May, and stands adjourned by the

court to the second Monday in July next, to answer a bill in chancery exhibited against them by Samuel Miller, John Lewis, and Rachel his wife, James Miller, William Miller, James Moffitt, and Hannah his wife, John Estill, and Martha his wife, and Henry Miller, an infant under the age of twenty-one years, by the said Samuel Miller, his next friend, all of them citizens of the State of Virginia; and this they shall in no wise omit, under the penalty of four hundred dollars each; and have then there this writ.

In testimony whereof, John Marshall, Esquire, Chief Justice of the United States, hath caused the seal of our said court to be hereunto affixed, this 9th day of May, 1808, and of our independence the 32d.

Attest, JOHN H. HANNA, *C. C. C. K. D.*

Marshal's return, to wit—Executed.

J. MADISON, *Deputy*,
For Jos. Crockett, M. K. D.

And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of September, and year aforesaid, came the complainants aforesaid, by their counsel; and on his motion, it is ruled that, unless the defendants answer the complainants' bill herein on or before the next rule day, the same will be taken pro confesso against them, and the matters thereof decreed accordingly. At which time, to wit, at rules held as aforesaid, in the month of October, and year aforesaid, came the complainants aforesaid, by their counsel; and the defendants still failing to answer the complainants' bill herein, although ruled so to do, it is therefore ruled that the same be taken pro confesso against them, and the cause is set for hearing. And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and nine, until which time this cause was continued on the rules, on motion of the defendants, Samuel Dillon, Alexander Wright, Hugh Wright, William Black, Samuel Black, Morris Morris, Herben M. Brenham, William Hildridge, and John Barnett, by their counsel, it is ordered that the judgment entered up in the clerk's office, taking the complainants' bill pro confesso against them, be, and the same is hereby, set aside; and leave is given the said defendants to file their answers herein; which were filed accordingly: to which answers of the said defendants, the complainants, by their counsel, reply thereto generally; and leave is given either party to take depositions generally, in or out of this district, before any two justices of the peace, either party giving to the other reasonable notice of the time and place of taking the same: and it is further ordered, that the surveyor of county do go on the lands in controversy between the parties on the day of next, if fair, if not, on the next fair day, and then and there survey and lay off the same as either party may direct, having due regard to all deeds and other evidence which may be produced, report all matters of fact specially, and return four fair plats and certificates thereof into the clerk's office of this court, thirty days, at least, before the day of trial; and the Marshal, or one of his deputies, is directed to attend the said surveyor, to remove force, should any be offered; and this cause is, by consent of the parties, to remain on the issue docket for trial at the next court, until which time this cause is continued.

Defendants' answer.

The joint and several answer of Samuel Dillon, Alexander Wright, Hugh Wright, William Black, Samuel Black, Moris Moris, Herben M. Brenham.

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William Hildridge, John Barnett, to a bill in chancery exhibited against them by Samuel Miller and others, heirs and representatives of Henry Miller, deceased. These defendants, saving and reserving to themselves all benefit of exception to the many uncertainties and untruths with which the said bill abounds, for answer thereto, or so much as they are advised it is in anywise material for them to answer unto, they answer and say, that it may be true that the complainants' father made the entry stated in the bill; but these defendants deny that the same possesses the specialty and requisites made indispensable by the land law. These defendants do not admit that the complainants are all citizens of the State of Virginia, as alleged in their bill, but deny the same, and call upon them to make the usual proof that such is the fact; otherwise, they pray this court to dismiss their suit for the want of jurisdiction. These defendants do not admit that the ancestor of the complainants died before the time of surveying expired, and require proof that such is the fact. These defendants do not admit that the complainants were infants when the law expired for surveying lands in this Commonwealth, and require that proof be made by the complainants of their several and respective ages: for these defendants are advised to say, that the proportions of each of these complainants only as are or were under age at the time of surveying expired, can claim any benefit from the exception in the statute. These defendants, by way of further answer, say, that they have been informed, and charge the fact to be, that the said Henry Miller, in his lifetime, or the complainants since his death, caused a survey to be executed on said entry, different from the one on which they have since filed their bill, which, they are advised to say, is conclusive against any such survey as is now pretended to have been made, and on which the complainants have brought their suit. These defendants also state, that Chapman Austin and Israel Christian had many claims in this country, besides those which the complainants have pretended to adjoin, proof of which these defendants will in due time adduce. These defendants state that they have made lasting and valuable improvements; and that they claim title under elder grants than that under which the complainants claim; and insist on their elder legal right, or against any claim which the complainants have pretended. These defendants, Samuel Dillon and Alexander Wright, say they claim title under John McIntyre, who claimed under an entry, &c., made by Nicholas McIntyre; the title papers of which these defendants will hereafter file. These defendants, Hugh Wright, William Black, and Samuel Black, state that they claim under an entry, &c., in the name of Thomas Swearingen; the title papers they will also in due time produce. These defendants, Moris Moris and Harbin M. Branham, claim under George Johnson, who claimed under John Martin, as will appear from the title papers herewith filed. These defendants, denying all fraud, pray to be dismissed with their reasonable costs in this behalf most wrongfully expended.

WICKLIFFE.

And afterwards, to wit, at the November term of the court aforesaid, and year aforesaid, came the defendants aforesaid, by their counsel; and it appearing to the satisfaction of the court that one of the defendants, Moris Moris, has departed this life, it is therefore ordered, that this suit, as to the said Moris Moris, do abate, and that it be revived in the name of Thomas Moris, Rachel Moris, wife of Moris Moris, jun., and Daniel C. Moris, and

Polly Moris, John Moris, Rebecca Moris, Nancy Moris, Betsey Moris, Horatio Moris, Preston Moris, Albert F. Moris, and Bluford S. Moris, by Thomas Moris, their guardian, heirs and representatives of the said Moris Moris, deceased.

And at a subsequent day of the term and year last aforesaid, on motion of the complainants, by their counsel, leave is given them to amend their bill, and make George Johnson a defendant thereto.

The United States of America to the Marshal of the Kentucky district, greeting:

You are hereby commanded to summon George Johnson, a citizen of the State of Kentucky, to appear before the Judges of our seventh circuit court of the United States in and for the Kentucky district, at the capitol in Frankfort, on the first Monday in May next, to answer a bill in chancery exhibited against him by Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffitt, and Hannah his wife, John Estill, and Martha his wife, and Henry Miller, an infant under the age of twenty-one years, by the said Samuel Miller, his next friend, all of them citizens of the State of Virginia; and this he shall in no wise omit, under the penalty of four hundred dollars; and have then there this writ.

In testimony whereof, John Marshall, Esquire, Chief Justice of the United States, hath caused the seal of our said court to be hereunto affixed, this 15th day of December, 1809, and of our independence the 34th.

Attest, JNO. H. HANNA, *C. C. C. K. D.*

Marshal's return, to wit Executed.

JOHN MADISON, Jr., *Deputy,*
For Joseph Crockett, M. K. D.

And afterwards, to wit, at the November term of the court aforesaid, and year one thousand eight hundred and ten, until which time this cause was continued, on motion of the defendants, by their counsel, it is ordered, that they have leave to amend the survey returned and filed herein, and that the surveyor of Bourbon county do go on the lands in controversy between the parties, on the day of next, if fair, if not, then on the next fair day, and then and there survey and lay off the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return four fair plats and certificates thereof into the clerk's office of this court thirty days at least before the day of trial; and the marshal, or one of his deputies, is directed to attend the said surveyor, to remove force, should any be offered. And it is further ordered, that either party have leave to take depositions generally, upon giving to the adverse party legal notice of the time and place of taking the same, before any two justices of the peace, notary public, or mayor of any city.

The following is a copy of William Hibler's answer, marked, Filed 9th June, 1809 to wit:

The separate answer of William Hibler to a bill in chancery, exhibited against him and others in the circuit court of the United States for the district of Kentucky, by Samuel and other of the heirs of Henry Miller, deceased.

This defendant, saving and reserving all manner of exception to the many uncertainties and untruths with which the complainant's bill abounds, and

for answer to so much as he is advised is material in his defence, says, that it may be true that the complainants' father made the entry stated in the bill, but this defendant denies that the same possesses the specialty and requisites made indispensable by the land law; but this defendant does not admit that the complainants are all inhabitants or citizens of the State of Virginia, as alleged in their bill, and denies the same, and calls upon them to make the usual proof that such is the fact; otherwise, they pray this court to dismiss the bill for want of jurisdiction. This defendant does not admit that the ancestor of the complainants died before the time of surveying expired, and require proof that such is the fact. This defendant does not admit that the complainants were infants when the land law expired for the surveying land in this Commonwealth, and requires proof to be made by the complainants of their several ages; for this defendant is advised to say that the proportions of each of these complainants only as are or were under age at the time of surveying expired, can claim any benefit from the exceptions in the statute. This defendant, by way of further answer, says, that he has been informed, and charges the fact to be, that the said Henry Miller, in his lifetime, or the complainants since his death, caused a survey to be executed on said entry, different from the one on which they have since filed their bill, which he is advised to say is conclusive against any such survey as is now pretended to have been made, and on which the complainants have brought this suit. This defendant says, that Chapman Austin and Israel Christian had many other claims in this country, beside those which the complainants pretend to adjoin, proof of which this defendant will introduce when necessary: this defendant further states, that he holds still under Benjamin Harris's claim of one thousand acres, and that the said Harris obtained a grant elder in date than that of the complainants. This defendant insists on his elder legal title against any claim the complainants may pretend to have; and that this defendant has made suitable and lasting improvements. This defendant denies all fraud and combination, and prays to be dismissed, with his lawful cost.

ROBERT WICKLIFFE.

BOURBON COUNTY, *May 3d*, 1809.

This answer was sworn to by William Hibler, before me, a justice of the peace for said county. Given under my hand the day above mentioned.

THOMAS HUGHES.

The following is a copy of Victor Larimer's answer, marked, Filed 5th May, 1809, to wit:

The separate answer of Victor Larimer to a bill of complaint exhibited in the circuit court of the United States for the Kentucky district, by Samuel Miller, John Lewis, &c., against him and others.

This deponent, saving and reserving to himself all benefit of exception to the many errors, &c., in the complainant's bill set forth, for answer thereto, or to so much thereof as he deems it material for him to answer unto, says, it may be true that Henry Miller made the entry set forth in the bill; that he departed this life after making the last will and testament therein mentioned; that a survey has been made and patent procured as is therein stated; but this defendant, having no knowledge of these facts, prays that the complainants may be required to prove them to this honorable court. This defendant denies that said entry of Miller is special, the survey

according to entry, or the patent legal. The entry under which this defendant claims was made in the name of Parmenus Briscoe, February 7th, 1786, for 1,000 acres; which entry is hereunto annexed, and made a part of this *bill*. This defendant not being a judge of land claims, refers it to this court to determine whether it possesses the requisite specialty or not. The survey upon said entry was made the 13th day of February, 1786, according to location, as this defendant is advised, and the patent issued the 13th day of August, 1787, without fraud, to the knowledge of this defendant. That part of said land claimed by this defendant was conveyed by said patentee to Horatio Hall, by deed bearing date 17th October, 1792, and by said Hall to this defendant, by deed bearing date 17th June, 1799; to attested copies of which survey, patent, and deeds, this defendant refers for greater certainty, and prays that they may be considered as parts of this answer. This defendant having answered every thing that he sees material to be answered unto in said bill, denies all unlawful fraud and combination wherewith he is charged, and prays to be hence dismissed, with his proper costs, &c.

VICTOR LARIMER.

HARRISON COUNTY, *to wit:*

This day appeared Victor Larimer before me, a justice of the peace for Harrison county, and made oath that the allegations of the within answer, so far as they depend upon his own information, are true; and so far as they depend upon the information of others, he believes to be true.

Given under my hand and seal, this 10th day of April, 1809.

CHRISTOPHER McCONNICO.

Exhibits referred to in the foregoing answer, to wit: February 7th, 1786, Parmenus Briscoe enters 1,000 acres on part of a Treasury warrant, No. 19,680, on the waters of Stoner's and Hinkston's forks of Licking, on Reuben Proctor's survey of 1,000 acres, surveyed June 3d, 1784, beginning with his beginning, and running his courses, to include the said survey.

A copy. Teste,

THOMAS M. PRENTISS,
For Richard Higgins, S. F. C.

[This survey is not filed.]

Beverly Randolph, Esq., Lieutenant Governor of the Commonwealth of Virginia, to all to whom these presents shall come, greeting:

Know ye, that, by virtue and in consideration of part of a land office Treasury warrant, number nineteen thousand six hundred and eighty, issued the second day of October, 1783, there is granted by the said Commonwealth unto Parmenus Briscoe, assignee of George Slaughter, a certain tract or parcel of land, containing one thousand acres, by survey bearing date the thirteenth day of February, one thousand seven hundred and eighty-six, lying and being in the county of Fayette, on the waters of Stoner's and Hinkston's forks of Licking creek, on Reuben Proctor's survey of one thousand acres, and bounded as followeth, to wit: beginning at his beginning, and running with his courses, viz: at two hickories, a honey locust, and box elder, eighty poles southwest of Log pond, and running southeast three hundred and twenty poles to two sugar trees and a hickory;

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thence northeast five hundred poles, crossing two branches, to a forked mulberry, buckeye, and white oak, on a hill side; thence northwest three hundred and twenty poles, crossing a branch three times, to a bettywood ash and hoopwood; thence southwest 500 poles to the beginning; with its appurtenances. To have and hold the said tract or parcel of land, with its appurtenances, to the said Parmenus Briscoe, and his heirs for ever.

In witness whereof, the said Beverly Randolph, Esq., Lieutenant Governor of the Commonwealth of Virginia, hath hereunto set his hand, and caused the lesser seal of the said Commonwealth to be affixed, at Richmond, on the thirteenth day of August, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Commonwealth the twelfth.

[L. S.] BEVERLY RANDOLPH.

Parmenus Briscoe is entitled to the within mentioned tract of land.

JOHN HARVIE, *Register Land Office.*

This indenture, made this 17th day of October, 1792, between Parmenus Briscoe, of the county of Mercer, by his attorney in fact James Twyman, of the one part, and Horatio Hall, of the county of Bourbon, of the other part, witnesseth: that the said Briscoe, by his said attorney, for and in consideration of the giving up a bond executed by the said Briscoe to James D. Davis, for 250 acres of land, and assigned by him to the said Hall, the receipt whereof is hereby acknowledged, have bargained, sold, given, granted, aliened, released, and confirmed, and by these presents do bargain, sell, give, grant, alien, release, and confirm, unto the said Hall, a certain tract or parcel of land, lying and being in the county of Bourbon, and part of the Log pond tract, and bounded as followeth, to wit: beginning at Swearingen's line, 59 poles southwest of the Log pond; thence southwest 21 poles to two hickories, a honey locust, and box elder; thence southeast 200 poles to a hickory, locust, and buckeye, opposite Swearingen's corner, 21 poles from said Swearingen's corner on two sugar tress and ash, northeast; thence southeast 120 poles to two sugar trees and hickory; thence northeast 300 poles to a stake; thence northwest 120 poles to Swearingen's line; thence with said line 300 poles; thence with the same courses till it strikes the hickory, locust, and buckeye, and beginning; together with all ways, waters, water courses, rents, profits, and every other emolument and advantage whatever. To have and to hold the aforesaid lands and premises unto the said Hall, his heirs and assigns for ever: and the said Briscoe, by his attorney aforesaid, warrants and defends the aforesaid lands and premises unto the said Hall, his heirs and assigns, against all and every person or persons whatsoever, lawfully claiming the said lands, or any part thereof, under the said Briscoe. In witness whereof, the said Briscoe, by his attorney aforesaid, hath hereunto set his hand, and affixed his seal, the date above written.

PARMENUS BRISCOE, [L. S.]

By his attorney in fact James Twyman.

Interlined before executed with the words "beginning" and "hundred."

JAMES TWYMAN.

A copy, THOMAS ARNOLD, *C. B. C.*

This indenture, made this 17th day of June, one thousand seven hundred and ninety-nine, between Horatio Hall, of the county of Harrison, and State of Kentucky, of the one part, and Victor Larimer, of the county and State

aforesaid, witnesseth: that the said Horatio Hall, for and in consideration of eight hundred and fifty dollars, to him in hand paid, the receipt whereof is hereby acknowledged, have, and by these presents do bargain, sell, alien, and confirm, unto him the said Victor Larimer, and to his heirs for ever, all the right, title, interest, and claim, of him, the said Horatio Hall, to two hundred and twenty acres of land, it being part of a tract of land commonly known by the name of the Log pond tract, lying in the county of Bourbon, which said land said Hall claims by conveyance under Parmenus Briscoe, and for which said land a suit is now depending in the district court at Paris; and he, the said Hall, hereby invests, and transfers to said Larimer, his heirs, &c. all his interest and benefit in and to said suit, or judgment when obtained thereon, so that he, the said Larimer, may conduct this suit, or have execution on the said judgment when obtained, or do any other act in it which said Hall might or could have done: and he, the said Hall, for himself and heirs, doth defend from any person that may now or hereafter claim under him the said title, interest, and claim, in and to said land, with all its appurtenances and conveniences thereunto belonging or in any wise appertaining, to the said Victor Larimer, his heirs, &c. for ever, to him or their proper use, benefit, or behoof for ever, and the said Horatio Hall, for himself, his heirs and assigns, and all persons claiming under him or them, unto the said Victor Larimer, his heirs and assigns, shall and will warrant, and for ever defend, but from the claim or demand of no other person whatsoever: and it is further understood between the parties, that if the land before mentioned should be lost by any better title than that of the said Hall's, in that case the said Hall is to refund to the said Larimer the purchase money, with legal interest thereon. In testimony whereof, the said Horatio Hall hath hereunto set his hand and seal, the date above written.

HORATIO HALL, [L. S.]

Signed, sealed, and delivered, in the presence of us,
JEREMIAH ROBINSON,
SAMUEL COOK,
WILLIAM HARRISON.

HARRISON COUNTY, *October the 1st*, 1799, *sct.*

This indenture of bargain and sale, from Horatio Hall to Victor Larimer, was acknowledged before me by the said Horatio, and ordered to be recorded.

Teste,

WILLIAM MOORE, *Clerk.*

A copy from the record. Attest,

WILLIAM MOORE, *C. H. C.*

And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and eleven, came the parties aforesaid, by their attorneys, and on motion of the complainants it is ordered they have leave to amend the survey returned; and it is further ordered that the surveyor of county do go on the land in controversy between the parties on the day of next, if fair, if not, on the next fair day, and then and there survey and lay off the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return four fair plats and certificates

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thereof into the clerk's office of this court, thirty days at least before the day of trial; and the marshal, or one of his deputies, is directed to attend the said surveyor, to remove force, should any be offered; and it is further ordered that either party have leave to take depositions generally, in or out of this district before any two justices of the peace, notary public, or mayor of any city, upon giving to the adverse party legal notice of the time and place of taking said depositions.

And afterwards, to wit, at an adjourned term, held in the month of October, and year aforesaid, came the defendants by their counsel, and on their motion leave is given the defendant Laban Shipp to file his answer herein, which was done accordingly; and on the further motion of the defendants Samuel Dillon, Alexander Wright, Hugh Wright, Samuel Black, William Black, Morris Morris, Harben M. Brenham, William Hildridge, and John Barnett, leave is given them to file their amended answer, which is done accordingly; to which answer and amended answer the complainants reply thereto generally, and leave is given either party to take depositions generally either in or out of this district, before any two justices of the peace, notary public, or mayor of any city, upon giving to the adverse party legal notice of the time and place of taking said depositions; and by consent of parties this cause is continued until the next November term.

Laban Shipp's answer.

The separate answer of Laban Shipp, to a bill in chancery exhibited against himself and others, by the heirs of Henry Miller, deceased.

This defendant, for answer to the said bill, says, that he does not admit that the transcript of the entry, said to have been made in the name of the said Henry Miller, deceased, which is referred to by the complainants in their bill, is a true or correct copy from the original book of entries, in which the said location was made; and this defendant refers to a certified copy of said entry, which, as he is informed and believes, is correctly and carefully transcribed from the said original book of entries, and which is annexed to the amended answer of his codefendant, filed herein and designated by the letter (C.) This defendant does not admit that the said entry is possessed of the requisites of a good and valid location, or that the survey which has been executed thereon is conformable to location or to law, or that the survey was executed within the period prescribed by law, or that the complainants, or any of them, were infants under the age of 21 years at the expiration of the period for surveying entries in this Commonwealth; and this defendant requires of the complainant, with respect to all these particulars, ample and satisfactory proof. This defendant admits that he holds a survey of 800 acres, surveyed and patented in the name of Cave Johnson, which is interfered with by the survey, under which the complainants claim title in this suit. This defendant denies all fraud and conspiracy with which he stands charged, without that, &c.; and prays to be hence dismissed, with his costs in this behalf expended.

Bourbon County, to wit:

Laban Shipp this day personally appeared before me, one of the justices of the peace for the county aforesaid, and made oath that the matters and things contained in the foregoing answer, so far as they concern his own

that the surveyor of Fayette county be summoned to attend this court at the next term, on the day this cause may be set for trial, and that he bring with him the original entry book, which contains the original entry of Henry Miller for 1,687.

And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and fifteen, until which time this cause was continued, came the parties aforesaid by their counsel, and on motion of the complainants leave is given them to amend their bill, and make Jacob McIntire and John McIntire defendants, which is done accordingly: whereupon leave is given John McIntire to withdraw a bond given to him by his father, also his father's will, by leaving a certified copy thereof. And the arguments of counsel being heard as to all the defendants in this cause, except those claiming under Nicholas McIntire's 1,000 acres, but the court not being sufficiently advised took time, &c.

Amended Bill.

Amendment to the bill of complaint of Henry Miller's heirs, citizens of the Commonwealth of Virginia, against Laban Shipp and others, citizens of the Commonwealth of Kentucky, filed in the court of the United States for the 7th circuit for the Kentucky district.

Your orators show that since the filing their original bill, they have discovered that John McIntire holds the legal title to the 500 acres claimed by virtue of the following entry, to wit: "31st December, 1782. John McIntire enters 1,500 acres, remaining part of a Treasury warrant No. 11,599, to adjoin Nicholas McIntire's location of 1,000 acres, on the south side of a dividing ridge, and to include some of the head drains of Stoner's fork, then to run south to form a square as near as the vacancy will admit, to include the quantity." 500 acres of which was surveyed on the 21st day of February, 1784; and a grant elder than that under which your orators claim has issued for the same. Your orators pray the said McIntire, who is a citizen of the State of Kentucky, may be made a defendant. They further show, that Nicholas McIntire, on the 19th day of May, 1780, made the following entry, to wit: "Nicholas McIntire enters 1,000 acres, on the waters of Licking, between the head branches of Flat creek and the most east branch of Hinkston's fork, including the waters of each branch, and adjoining a preemption obtained by Thomas Clark on the southeast; and having caused the same to be surveyed contrary to location, obtained a patent elder in date than that which issued to your orators, and devised the same to his sons Isaac and Jacob; Isaac conveyed to the defendant John: and your orators pray that the said Jacob McIntire, who is a citizen of the Commonwealth of Kentucky, may be made a defendant to this bill. The defendants James Hughes, Alexander Wright, are also in possession under this title. Your orators further show that Thomas Swearingen, since deceased, on the 26th day of April, 1780, made the following entry on a military warrant, to wit: "Thomas Swearingen enters 1,000 acres in Kentucky, by virtue of a warrant for military services performed by him last war, on a spring branch a northeastwardly course from Stoner's spring, to include a tree marked N. B. C. S. and T. at the head of said spring;" and having surveyed the same contrary to location and to law, obtained a patent of elder date than that granted to your orator, and departed this life, leaving Thomas Swearingen his heir at law, who has conveyed one tract of 281 acres, part thereof, to Samuel Black, who were made defendants by the original bill; and that a certain William

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Wright has a deed for 200 acres of the said land, who has been made a defendant by the name of Hugh instead of William. Your orators, therefore, pray that the said William, who is a citizen of the Commonwealth of Kentucky, may be also made a defendant. Your orators further show, that the said Thomas Swearingen also made the following entry on Treasury warrant, to wit: "December, 31st, 1782. Thomas Swearingen enters 1,000 acres on a Treasury warrant No. 10,569 to adjoin on the south side his military claim which lies about 6 miles a northeastwardly course from Stoner's spring, to extend the whole length of said line, and to run southwardly at right angles as nearly as the vacancy will admit, to include the quantity;" which he has also surveyed contrary to location and to law, and the legal title has vested in the said heir, who is without the jurisdiction of this court, but is in possession of part. Your orators further show, that a certain John Martin, having, on the 18th day of December, 1782, made the following entry on Treasury warrant, with the county surveyor, to wit: "John Martin, assignee, &c. enters 300 acres of land, balance of warrant No. 7,363, adjoining his entry on part of the aforesaid warrant on the east side, and also adjoining Bowman's entry, running northwardly adjoining McClelan's settlement and pre-emption, running with his line and joining William Miller's settlement and pre-emption, thence with his line to Edmund Lynes, and thence with his lines nearly northeast joining John South, sen.'s settlement and pre-emption, and thence with his northwest line to William Wood's, thence with Wood's northwest line to Samuel Henderson's settlement and pre-emption, and thence to Archibald McKinney's, thence with his lines to the beginning, to include all vacant lands, to include the complement;" 1,000 acres withdrawn and amend, December 19th, caused the same to be surveyed contrary to location and to law, and obtained a patent for the same elder in date than that granted to your orators; sold and conveyed the same for a valuable consideration to George Johnson and Edmund Thomas; that Edmund Thomas has released his interest by deed to the said George Johnson, who is already made a defendant to this suit. Your orators further show, that the defendants Brenham and Moris were in possession of a part of said land, under the title of said Johnson; that the said Morris Morris has departed this life, leaving Thomas Morris, Rachael Morris, Daniel C. Morris, Polly Morris, John Morris, Rebecca Morris, Nancy Morris, Betsey Morris, Horatio Morris, Preston Morris, Albert F. Morris, and Bluford Morris, his heirs and representatives, all of whom your orator prays may be made defendants to this bill, the last nine of whom are infants under the age of 21, and Thomas Morris is their guardian. Your orators further show, that, on the 29th day of February, 1780, Archibald McKinney obtained from the commissioners the following certificate, to wit: Archibald McKinney this day claimed a settlement and pre-emption to a tract of land in the district of Kentucky, on account of settling in the country, in the year 1777, and residing ever since, lying on a small branch of Green river, &c. &c.; and on the 23d of February, 1780, altered his location as follows: Archibald McKinney came into court, and moves to alter his location, as his former one was taken from him by a prior improvement, which is granted him, lying on Stoner's fork of Licking creek above Stoner's land, at a buffalo path, running north for quantity; ordered that a certificate issue accordingly; and on the 28th day of February, 1780, entered the certificate with the surveyor, in the following words, to wit: Archibald McKinney enters 400 acres by certificate, &c. lying on Stoner's fork of Licking creek, above Stoner's, at a buffalo path, and running north for quantity; and having obtained a pre-emption warrant, entered the

same on the 26th day of May, 1780, in the following words, to wit: Archibald McKinney enters 1,000 acres upon a pre-emption warrant, on Stoner's fork of Licking, adjoining Michael Stoner above, running north and up the creek for quantity; and having caused the same to be surveyed contrary to location and law, obtained a patent elder in date than that granted to your orators. Your orators pray that the said Archibald McKinney, who is a citizen of the Commonwealth of Kentucky, may be made defendant to this bill. Your orators further show, that a certain Jacob Johnson obtained from the commissioners the following certificate of a settlement and pre-emption in the following words, to wit: January 10th, 1780. Jacob Johnson, by Daniel Wilcox, this day claimed a settlement and pre-emption to a tract of land in the district of Kentucky, lying about 8 miles from the Lower Blue licks, at a deer lick on Hinkston's buffalo road, on a branch, running up and down for quantity, which certificate was assigned to a certain James Parberry, who, on the 21st day of February, 1780, entered the certificate with the surveyor in the following words, to wit: James Parberry, assignee of Manoah Singleton, who was assignee of Jacob Johnson, enters 400 acres by a certificate, &c. lying about 8 miles from the Lower Blue licks, at a deer lick on Hinkston's buffalo road, on a branch, running up and down for quantity; and having obtained a pre-emption warrant, entered the same on the 1st day of June, 1780, in the following words, to wit: James Parberry, assignee, &c. enters 1,000 acres on P. W. No. &c. adjoining his settlement on the east side on Hingston's buffalo road, 8 miles west of the Blue lick: which claims were surveyed contrary to location and to law, and a patent obtained for the pre-emption, elder in date than that obtained by your orators, which patent issued to George Harriton, as assignee of the said Parberry, who is a citizen of the Commonwealth of Kentucky; and your orators pray may be made a defendant to this bill. Your orators further shew, that Prettyman Merry, on the 13th day of December, 1782, made the following entry with the county surveyor, to wit: Prettyman Merry enters 3,000 acres of land on four Treasury warrants No. &c. on the buffalo road leading from Grant's station to the Lower Blue licks, beginning at a small drain that makes yellow clay banks, and run southwardly across the road near the dividing ridge, between Stoner's fork and Hinkston, the survey to be laid so as to take the abovementioned place near the centre; and having caused a survey of 1,890 acres by virtue thereof to be made, contrary to location and to law, has obtained a patent of elder date than that granted to your orators. Your orators pray that the said Merry, who is a citizen of the Commonwealth of Kentucky, be made a defendant to this bill. Your orators further show, that Cave Johnson, having, on the 1st day of June, in the year 1784, made the following entry with the county surveyor, to wit: "Cave Johnson withdraws his entry of 400 acres, and enters the same and 400 acres, in all 800, beginning at the southwest corner of Prettyman Merry's 1,890 acres survey, on the waters of Licking, at a buckeye marked as a corner; thence with said Merry's line, N. 50° W. 140 poles, to the line of John Parberry's pre-emption; thence with said Parberry's line S. 20° E. to his corner, at a buckeye and two sugar trees; thence S. 50" E. 260 poles; thence N. 40° E. and from the beginning, along said Merry's line, N. 40 E., so far as a line at right angles shall include the quantity;" and caused the same to be surveyed contrary to location and law, and obtained a patent elder in date than that granted to your orators. Your orators pray that the said Cave Johnson, who is a citizen of the Commonwealth of Kentucky, may be made a defendant to this bill. That Laban Skipp has possession of the said survey, whom they have made a defendant.

but they believe he has not the legal title. Your orators further show, that, on the 31st day of December, 1782, John Taylor and Reuben Proctor made the following entry with the county surveyor, to wit: "John Taylor, assignee of Joseph Berry, and Reuben Proctor, assignee of John Taylor, enters 3,000 acres, on part of a Treasury warrant No. 11,642, beginning on the dividing ridge between Stoner and the waters of Hingston, to join a certain entry made by Reuben Proctor, that includes the log pond, beginning upon the west line of the said entry, to extend northwest for length, according to law, and having caused the same to be surveyed contrary to location and law, and have obtained a patent elder in date than that granted to your orators; your orators pray that the said Taylor and Proctor, who are citizens of the Commonwealth of Kentucky, be made defendants to this bill. Your orators further show, that, on the 28th day of December, 1782, Reuben Proctor made the following entry with the county surveyor, to wit: "Reuben Proctor, assignee of Abram Salley, enters 1,000 acres of land, on two Treasury warrants No. &c. on the dividing ridge between Hingston and Stoner's fork waters, beginning 80 poles southwest of the log pond, which lies about four miles below McMullin's trace, and running southeast 320 poles, thence northeast 500 poles, thence northwest 320 poles, thence southwest 500 poles to the beginning, except some prior claims interfere; in such case, to extend the beginning line at each or either end, and to bind on the line or lines of any prior entry, in such manner as to include the quantity in the most regular form; having surveyed the same contrary to location and to law, has obtained a patent elder in date than that granted to your orators. Your orators pray that the said Reuben Proctor, who is a citizen of the Commonwealth of Kentucky, may be made a defendant to this bill. Your orators further show, that, on the 7th day of February, 1786, Parmenus Briscoe entered the same land with the county surveyor, to wit: "Parnemus Briscoe enters 1,000 acres on part of a Treasury warrant No. 19,680, on the waters of Stoner's and Hinkston's forks of Licking, on Reuben Proctor's survey of 1,000 acres, surveyed June 3d, 1784, beginning with his beginning, and running his courses to include the said survey; caused the same to be surveyed so as to include the said survey of Proctor, and has obtained a patent therefore, elder in date than that granted to your orators; sold and conveyed 250 acres thereof to Horatio Hall, who sold and conveyed 220 acres to the defendant, Victor Larimer. Your orators further shew, that James Howard and Charles Morgan, on the 28th day of December, 1782, made the following entry with the county surveyor, to wit: James Howard, assignee of David Hughes, and Charles Morgan, assignee of James Howard, &c. enters 900 acres of land on a Treasury warrant, No. &c. to be laid off in two surveys, beginning at Reuben Proctor's second corner of his entry of 1,000 acres, that includes the log pond, on the dividing ridge between Hinkston's and Stoner's fork waters, and running with a line of said entry northeast 500 poles, thence southeast 288 poles to the beginning, except some prior claim interferes; in such case, to extend to the beginning at each end or either end, and to bind on the line or lines of any prior entry, in such manner as to include the quantity in the most regular form.

5th February, 1783. James Howard and Charles Morgan make the following amendment to their entry in book the 3d, page 62: to add, to hold the said land as tenants in common and not as joint tenants; and caused the same to be surveyed, contrary to location and law, and have obtained a patent elder in date than that granted to your orators. Your orators pray

that the said James Howard and Charles Morgan, who are citizens of the Commonwealth of Kentucky, may be made defendants to this bill. Your orators further show, that all the said claims, except the settlement of Parberry, assignee of Johnson, and of Archibald McKinney, are surveyed so as to interfere with your orators' said claim; that they are all vague, or, where not so, illegally surveyed, and inferior to the claim of your orators. Yet the said defendants combining, &c. &c.; and they pray as in their original bill, and for subpœnas for the defendants made herein.

J. HUGHES,
Attorney for the compl'ts.

Upon which amended bill the following subpœna was issued, to wit:

The United States of America to the Marshal of the Kentucky district, greeting:

You are hereby commanded to summon John McIntire, Jacob McIntire, and William Wright, Thomas Morris, Rachael Morris, Daniel C. Morris, Polly Morris, John Morris, Rebecca Morris, Nancy Morris, Betsey Morris, Horatio Morris, Preston Morris, Albert F. Morris, and Buford Morris, heirs and representatives of Morris Morris, deceased, and Thomas Morris, guardian to the last mentioned nine, who are infants under the age of 21, and Archibald McKinney, George Haviston, Prettyman Merry, Cave Johnson, John Taylor, Reuben Proctor, James Howard, and Charles Morgan, all citizens of the State of Kentucky, to appear before the Judges of the seventh circuit court of the United States in and for the Kentucky district, at the capital in Frankfort, on the 1st Monday in November next, to answer a bill in chancery, exhibited against them by Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffitt, and Hannah his wife, John Estill, and Martha his wife, and Henry Miller, an infant under the age of twenty-one years, by the said Samuel Miller, his next friend, all citizens of the State of , and have then there this writ.

In testimony whereof, John Marshall, Esq., Chief Justice of the United States, hath caused the seal of our said court to be hereunto affixed, this 6th day of June, 1815, and of our independence the 39th.

Attest, JOHN H. HANNA, *C. C. C. K. D.*

Marshal's return, to wit:

1815, June 21, Executed on Thomas Morris, Daniel C. Morris, and Thomas Morris as guardian for the within named nine infants; June 22d, on James Howard; June 26th, on Cave Johnson; July 28th, on Prettyman Merry; August 20th, on Archibald McKinney; October 9th, on John Taylor; October 10th, on Jacob McIntire and John McIntire. William Wright and George Hairston are not inhabitants of the district of Kentucky. Reuben Proctor is deceased.

CHAPMAN COLEMAN, *Deputy,*
For Robert Crockett, M. K. D.

Executed on Charles Morgan by delivering a copy.

JAMES CLARK, *Deputy,*
For Robert Crockett, M. K. D.

JAMES HUGHES' ANSWER.

The separate answer of James Hughes to a bill in chancery exhibited against him and others in the circuit court of the United States for the district of Kentucky, by Samuel Miller and others, heirs and representatives of Henry Miller, deceased.

This deponent, saving and reserving to himself all manner of benefit of exception to the many erroneous and false statements and uncertainties set forth by the complainants, and for answer to so much as he is advised is material in his defence, answers and says, that it may be true that the complainants' ancestor made such an entry as is set forth in their bill, and that the complainants may have made such survey as they represent; but this defendant being ignorant of the same, calls on the complainants for the proof of those facts. This defendant further states, that he is advised to say that the entry of 1,687 acres, that the complainants pretend to derive title under, is vague and void; and, if it has any meaning at all, it is surveyed contrary to law and location; and further calls on the complainants for proof of the special calls and notoriety of said entry. This defendant is not willing to admit that the complainants are non-residents, and calls for proof of that fact. This defendant admits that he holds under a claim of 7,000 acres, entered, surveyed, and patented, in the name of Nicholas McIntire; and that he holds the elder patent on said land; and this defendant is advised to say, that he holds the best title in law and equity to the land in dispute; and states that he has made lasting and valuable improvements, &c.; and denies all fraud and unlawful combination with which he stands charged, and prays to be hence dismissed, with his cost in his defence in this behalf wrongfully expended.

JAMES HUGHES.

BOURBON COUNTY, *sct.*

James Hughes this day came before me, the subscriber, one of the Commonwealth's justices of the peace in and for the county aforesaid, and made oath that the facts contained in the foregoing answer, so far as they relate to his own knowledge, are true; and so far as they relate to information derived from the knowledge of others, he believes them to be true.

Given under my hand and seal, this 15th day of April, 1813.

VAL. PIERS, *J. P. B. C.* [SEAL.]

And afterwards, to wit, at a subsequent day of the term aforesaid, and year 1815, this cause being heard on the bill and answers, depositions and exhibits, it is decreed and ordered that the complainants recover against the defendants all the land included within the survey made for them as the heirs of Henry Miller, of 1,687, and which is designated on the connected plat by black lines and figures four; and in order to enable the court to make a final decree herein, it is decreed and ordered that the surveyor of Bourbon county do go on the land on the day of next, if fair, if not, on the next fair day, and lay off and connect with the said survey the following claims of the defendants, and report the same with the interference, by metes and bounds, to wit: the survey made for John McIntire, the 21st day of February, 1784, for 500 acres, and designated on the connected plat by the black lines and figures 5; also the survey made for Nicholas McIntire, the 19th day of December, 1783, for 1,000 acres, and

designated on the connected plat by black lines and figures 6; also the survey made for Benjamin Harris, the 20th day of February, 1784, for 1,000 acres, and designated on said plat by the black lines and figures 7; also the survey made for Thomas Swearingen, on an entry on military warrant, the 13th day of January, 1783, for 1,000 acres, designated on said plat by black lines and the figures 8; also one other survey of 1,000 acres, made for the said Thomas Swearingen, the day of , and designated by the black lines and figures 9; also one survey of 2,000 acres, made for John Martin, the 26th day of May, in the year 1798, and designated on the connected plat by the black lines and figures 10; also the pre-emption survey of Archibald McKinney, made the 9th day of January, 1783, and designated on the said plat by black lines and figures 11; also the pre-emption survey of James Parberry, assignee of Menoah Singleton, made the day of , and designated on the connected plat by interrupted black lines and figures 12; also the survey of 1,890 acres, made for Prettyman Merry, the day of , designated on the connected plat by interrupted black lines and figures 13; also the survey of 800 acres, made for Cave Johnson, June 5th, 1784, and designated on the connected plat by interrupted black lines and figures 14; also the survey of John Taylor and Reuben Proctor, assignees, for 3,000 acres, made the 4th day of June, 1785, and designated on the said plat by red lines and figures 15; also the survey of Reuben Proctor, assignee of Abraham Salley, for 1,000 acres, made the 4th day of June, 1784, and designated on the said plat by red lines and figures 16; also the survey of James Howard and Charles Morgan, for 900 acres, made the 15th day of June, 1784, and designated on the said plat by red lines and figures 17; and it is further decreed and ordered, that the said surveyor lay down the 500 acres or moiety of Nicholas McIntire's survey of 1,000 acres as aforesaid, from the deed executed by Isaac McIntire and wife to John McIntire, on the 4th day of August, 1808, and also report the metes and bounds of the other moiety of the said 1,000 acres survey; also lay down 200 acres of land, part of Thomas Swearingen's survey of 1,000 acres on military warrant, conveyed by the heirs of the said Swearingen to William Wright, by deed bearing date the day of June, 1799; also 281 acres, part of the said survey, conveyed by Andrew Swearingen, and Polly his wife, to William Black, by deed bearing date the 1st day of August, 1808; also 281 acres, part of the said survey, conveyed by Andrew Swearingen, and Polly his wife, to Samuel Black, heir at law to John Black, deceased, by deed bearing date the 1st day of August, 1808, and report the several metes and bounds of the interferences between the said three tracts of land and the survey of the complainants; also lay down 220 acres of land, part of Reuben Proctor's survey of 1,000 acres; and also part of 1,000 acres, patented to Parmenus Briscoe, which 220 acres as conveyed by the said Briscoe to Horatio Hall, and by Hall to Victor Larimer, by deed bearing date the 17th day of June, 1799, and make report to the first day of the next term. The question of costs is reserved. And on motion of the said complainants, it is further decreed and ordered, that leave be given them to withdraw their amended bill filed herein against McIntire, and file another in lieu thereof, making other defendents, which was done accordingly; and it is further decreed and ordered, that this suit, as to the defendant Hugh Wright, be discontinued. (See amended bill heretofore copied.

And afterwards, to wit, at the November term of the court aforesaid, and year aforesaid, the following decree was pronounced herein, to wit:

The surveyor having returned his survey and report, agreeable to the interlocutory decree in this cause, pronounced at the last term, it is now decreed and ordered, that the defendants James Hughes, Alexander Wright, and Samuel Dillon, do, on or before the first day of January next, convey to the complainants by deed, with warranty against themselves and those claiming under them only, 576¾ acres of land, part of the survey made on the entry of Nicholas McIntire of 1,000 acres, by the following boundaries, to wit: beginning at two hickories between two marked sugar trees in Thomas Swearingen's line, and twenty-two poles south 41½ degrees east from said Swearingen's beginning corner; thence S. 43½ degrees W. 437½ poles, to a box elder at the intersection of said line with Miller's west boundary line; thence with said line north 503 poles, crossing Flat run, to four white hickories and a white oak in Nicholas McIntire's old line; thence with said line N. 43½ degrees E., 96 poles, to an ash and *two ash* and sugar stumps in Thomas Swearingen's line of his 1,000 acres military survey; and thence with a line thereof, S. 41½ degrees E. 346 poles, to the beginning. And it is further decreed and ordered, that the defendant William Hibler do, on or before the first day of January next, convey to the said complainants by deed, with warranty against himself only and those claiming under him, all his interest in and to fifty acres of land, part of Benjamin Harris's survey of 1,000 acres, by the following boundaries, to wit: beginning at two sugar trees, northeast corner to said Harris's 1,000 acres; thence with his line south 89 degrees west, 195 poles, to one oak and ash stump, another of Harris's corners in Nicholas McIntire's line; thence with said line S. 43½ degrees W. 40½ poles, to a box elder in Miller's west boundary line; thence with said line south seven and eight-tenths poles to a box elder and buckeye stump, Miller's southwest corner in the iron-works road; thence with Miller's line east 226 poles, to two sugar trees in Harris's east boundary line; and thence with said line N. 1½ degrees W. 39½ poles, to the beginning.

And it is further decreed and ordered, that the defendant William Black do, on or before the 1st day of January next, by deed, with warranty against himself only and those claiming under him, convey to the complainants 189 acres of land, part of a survey of 1,000 acres, made for Thomas Swearingen on military warrant, by the following boundaries: beginning at a stake and dead mulberry and box elder at the intersection of Miller's north boundary with Black and Swearingen's northwest boundary line; thence running with Miller's line east two hundred and sixty one poles to a black walnut and buckeye in the dividing line between Black and William Wright; thence with said line S. 40 degrees E. 43 poles to two black walnuts, a black ash, and ash stump, corner to said William and Samuel Black's land; thence with their line south forty-eight and one half degrees west, 218 poles, to a stake between a pointed buckeye sugar tree, and two box elders, and a small blue ash, corner to said William and Samuel Black, in Swearingen's old line; thence with said line N. 41½ degrees W. 208 poles to a stake between a black locust, two blue ashes, and two hickories, all pointed, at the intersection of Swearingen's southwest boundary line with Miller's west boundary; thence with Miller's line north eleven and a half poles to a box elder at the intersection of Miller's west boundary line with Swearingen and William Black's northwest boundary line; and thence with said Black's and Swearingen's line N. 48½ degrees E. 19 poles, to the beginning.

And it is further decreed and ordered, that the defendant Samuel Black do, on or before the first day of January next, convey to the complainants by deed, with warranty against himself only and those claiming under him, 269¼ acres of land, part of the said survey of 1,000 acres, made for Thomas Swearingen, on military warrant, by the following boundaries, to wit: beginning at a large black ash near three marked sugar trees and a honey locust, on the top of a dividing ridge between Hinkston and Stoner, and corner to both Swearingen's surveys; thence with a line of the military, N. 41½° W. 217 poles, to a stake between a pointed buckeye sugar tree, two box elders and a small blue ash, corner to William Black's land; thence with his line N. 48½° E. 218 poles, to two black walnuts, a black ash and ash stump, in William Wright's line, and corner to William Black; thence with Wright's line S. 40° E., 144 poles, to a sugar tree in Henry Miller's east boundary line; thence with said line south eighty-seven poles, to a stake at the intersection of Swearingen's southeast boundary line with Miller's line, east half a pole, north forty-eight and a half degrees east, from a marked box elder; and thence with Swearingen's line S. 48½° west, 155 poles, to the beginning. And it is further decreed and ordered, that the defendant Victor Larimer do, on or before the first day of January next, convey to the complainants, by deed, with warranty against himself only, and those claiming under him, his interest in and to one hundred and one acres of land, part of a survey of 1,000 acres patented to Parmenus Briscoe, by the following boundaries, to wit: beginning at a stake at the intersection of Swearingen with Taylor's and Proctor's line, 52 poles S. 43¼° west from the log pond; thence with Taylor and Proctor's line S. 43½° west 32 poles, to a hickory and box elder, corner to Reuben Proctor's 1,000 acres; thence with his line S. 46¾° east 340 poles, to a stake in a field, corner to said Proctor and to Howard and Morgan; thence with their line N. 43½° east 81 poles, to an ash stump, buckeye and box elder in Miller's line; thence with said line north 113 poles to a stake half a pole north 43¼°-east from a marked box elder in Thomas Swearingen's line; thence with said line S. 48½° west 155 poles, to a large black ash on the dividing ridge between Hinkston and Stoner, near three marked sugar trees and a honey locust, corner to Swearingen; and thence with his line N. 41½° west 250 poles, to the beginning. And it is further decreed and ordered, that the defendants George Johnson, Harbin M. Brenham, and Thomas Morris, Rachel Morris, and Daniel C. Morris, heirs of Morris Morris, deceased, who are of full age, do convey to the complainants, on or before the first day of January next, by warranty against themselves only, and those claiming under them only, their several interests, and that Polly Morris, John Morris, Rebecca Morris, Nancy Morris, Betsey Morris, Horatio Morris, Preston Morris, Albert F. Morris, and Bluford Morris, infant heirs of the said Morris Morris, deceased, do convey to the complainants, in like manner, within six months after they severally arrive, all their interest derived to them under John Martin in and to the 1,671½ acres, part of John Martin's survey of 2,000 acres, by the following boundary, to wit: beginning at a large black walnut, white hickory, and blue ash, corner to Wood's survey, in Henry Miller's line; thence with Wood's and Martin's line S. 2½° west, 274 poles, to a sugar tree in Miller's south boundary line, and nine poles west from his southeast corner; thence with said Miller's line 391 poles to a box elder and buckeye stump, in the ironwork's road, Miller's southwest corner; thence with another of his lines north 674 $\frac{8}{16}$ poles to a dead mulberry, fallen black locust, and hickory,

Miller's northwest corner; thence with his line east 400 poles, to a stake in Wright's field; and thence with another of said Miller's lines south 400 $\frac{8}{10}$ poles, to beginning. And it is further decreed and ordered, that the defendant Laban Shipp do, on or before the first day of January next, convey to the complainants by deed, with warranty against himself only, and those claiming under him, 826 acres of land, part of a survey of 800 acres made for Cave Johnson, by the following boundaries, to wit: beginning at two box elders, a hickory and black locust in Henry Miller's line; thence with said line east 202 poles, to a stake in a field, northeast corner to said 1,687 acres survey; thence with another line thereof south 264 poles, to a stake in a field supposed to be in Cave Johnson's old line; thence with said line S. 38½° west 278 poles, to a stake, Johnson's corner, a large hickory; thence N. 51½° west 260 poles, to two sugar trees and a buckeye, a corner to Cave Johnson and James Parberry; thence with Johnson's and Parberry's line N. 20° west 70 poles, to an elm and sugar tree by a drain in Miller's line; thence with said line N. 110 poles, to a buckeye, sugar tree, and hickory, in a sink hole in Johnson and Merry's line; thence with said line S. 51½° east 64 poles to a buckeye in Piper's field, corner to said Johnson and Merry; and thence with their lines N. 38½° east 236 poles to the beginning. And it is further decreed and ordered, that the defendants Jacob Spiers, William Hildrith, and Joseph Hibler, do, on or before the first day of January next, convey to the complainants their several interests in and to the land included within the bounds of the survey made for Henry Miller, deceased, with warranty against themselves only, and those claiming under them. And it is further decreed and ordered, that the said defendants, all except the heirs of Morris Morris, deceased, pay to the complainants the costs of this suit. Whereupon came John McIntire, by his counsel, and by consent leave is given him to file his answer, which is done accordingly, to which the complainants replied generally, and it is ordered that unless the defendants, Jacob McIntire, Archibald McKinney, Prettyman Merry, Cave Johnson, John Taylor, and Charles Morgan, answer the complainants' bill on or before the first day of the next term, the same will be taken for confessed against them, and the matters thereof decreed. And the defendants against whom the above decree is given, except Morris Morris's hiers, Reuben M. Branham, and George Johnson, by their counsel, and prayed an appeal to the supreme court of the United States, which is granted them on condition that they enter into bond in the clerk's office of this court within ten days, with either James Garrard, James Robinson, or Thomas Hughes, their security, in the penalty of $500, conditioned as the law directs. It appearing to the satisfaction of the court that the defendants William Wright and George Harriston are without the jurisdiction of this court, therefore, on motion of the complainants' counsel, it is ordered that this suit, as to them, do abate.

John McIntire's answer.

The answer in chancery of John McIntire to an amended bill in chancery, exhibited against him and others, in the court of the United States for the seventh circuit and Kentucky district, by theheirs of Henry Miller, deceased. This respondent, saving and reserving every benefit of exception, &c. for answer to said amended bill, or so much of it as is material for him to answer unto, saith, it is true he made an entry with the proper county surveyor on the 31st day of December, 1782, for 500 acres of land, on Trea-

sury warrant No. to adjoin Nicholas McIntire's location for 1,000 acres on the south side of a dividing ridge, &c. as by an attested copy of said entry will more fully appear: that he caused said entry to be surveyed on or about the 21st day of February, 1784, and obtained thereon a patent of elder date than that under which the complainants pretend to derive title; but whether said entry is vague or special, or whether the survey be or be not made in conformity with the location, he submits to the judgment of the court, upon the facts which he will attempt to establish by proof in support of said entry. It is also true that Nicholas McIntire, on the 19th day of May, 1780, made, or rather this respondent made for him, an entry for 1,000 acres of land upon Treasury warrant, in the words and figures following, to wit: Nicholas McIntire enters 1,000 acres, &c., as will more fully appear by reference to an attested copy of said entry: that said entry having been legally surveyed, a patent issued thereon to the said Nicholas McIntire, of elder date than the complainants: that the said Nicholas McIntire devised the same by a general residuary clause in his will to this respondent's brothers, Isaac and Jacob McIntire, whereby the legal title was vested in them; but his said father, in his lifetime, had executed to him, this respondent, a bond for 500 acres of said land, which is mentioned and set forth in his answer to the original bill; wherefore his brother Isaac conveyed his interest in the legal title to this defendant, and Jacob ought also to have conveyed, but has not. He says that he, and those claiming under him by purchase, have been long in possession, as well of the tract of 1,000 acres as part of the tract of 500 acres aforesaid, and have made large, lasting, and valuable improvements thereon, under the full faith and confidence that the title was valid; and he still hopes that both Nicholas McIntire's claim and his own will be found upon investigation to be superior to that of the complainants; but he again submits their relative merits to the judgment of the court, relying upon his elder legal title as a safe protection, until the complainants establish the validity of their claim, which is not admitted, but controverted by this defendant, for the purpose of putting it in issue. He says he has sold long since his title and interest in the tract of 500 acres to Thomas Jones, of Bourbon county, who is bound to defend the title. He denies fraud, and prays to be hence dismissed with his costs, &c.

BOURBON COUNTY, SC.

This day John McIntire came before me, a justice of the peace in and for said county, and made oath that the facts stated in the foregoing answer from his own knowledge are true, and so far as stated from the information of others he believes them to be true.

Given under my hand this 27th day of November, 1815.

THOMAS HUGHES. [SEAL.]

Exhibits.

26th June, 1780. Chapman Austin enters 4,000 acres on the dividing ridge between Hingston's fork and the south fork of Licking, beginning two miles north of Harrod's lick, at a large buffalo road, and run a north course for quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

29th November, 1782. Israel Christian, assignee of Archibald Thomson, enters 200 acres of land upon a military warrant, No. 193, adjoining an en-

try of Chapman Austin's at his southwest corner, on the dividing ridge between Hinkston's and Stoner's fork, two miles north of Harrod's lick, running thence west 200 poles, thence north till an east course to strike Austin's line will include the quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

1782, December the 5th. Israel Christian enters 1,000 acres on part of a military warrant, No. 1,035, to include a lick and salt spring upon a branch, about 8 or 10 miles from where it empties into the south fork of Sandy creek, (on the south side thereof,) called Bullet's fork, and by some Louisa; the mouth of this creek is guessed at about 40 miles above the junction of the said south fork with the main middle fork: this survey to begin at a white oak, 80 poles to the southeast of the said lick and spring, thence north 400 poles, thence west 400 poles, thence south 400 poles, and thence east 400 poles to the beginning.

J. PRICE, *S. F. C.*

December 5th, 1782. Israel Christian enters 350 acres of land on four military warrants, No. 951, 943, 1,101, and 945, on a branch of Licking, on the north side of main fork, eight miles below the lower salt spring, beginning at the mouth of said creek, running half a mile up the river and the same distance down, then at right angles from each end of said line up the creek for quantity.

J. PRICE, *S. F. C.*

June 26th, 1780. Chapman Austin enters 4,000 acres upon four Treasury warrants, on Red river, a fork of Kentucky, beginning at the Great Beaver ponds, and to run up and down the said river, including the said ponds in the centre of the tract.

J. PRICE, *S. F. C.*

Also 2,000 acres adjoining Isaac Hite's two entries between Jessamine and Kentucky on the south and east, to run east and southeast for quantity.

J. PRICE, *S. F. C.*

19th May, 1780. Nicholas McIntire enters 1,000 acres upon a Treasury warrant on a drain of Licking, about four miles a northwestwardly course from Stroud's spring, to include a small spring where there is a hickory tree marked Y, to extend southwest for quantity.

Also 1,000 acres on the waters of Licking, between the head branches of Flat creek and the most east branches of Hingston's fork, including the waters of each branch, and adjoining a pre-emption obtained by Thomas Clarke on the southeast side.

Copies all, JOHN M. FOSTER, *Register.*

April 26th, 1780. Thomas Swearingen enters 1,000 acres in Kentucky, by virtue of a warrant for military services performed by him last war, on a spring, a branch about six miles a northeastwardly course from Stoner's spring, to include a tree marked N, B, C, S, and T, at the head of said spring.

A copy. Teste, M. HARDIN, *Register L. Off.*

23d December, 1782. Benjamin Harris enters 1,000 acres of land on Treasury warrant of 10,000 acres, No. 7,935, lying on a large branch supposed to be the waters of the north side of Stoner's fork of Licking, below

McMullin's trace, beginning at an ash tree marked T, standing by the said branch, and extending 400 poles north; then eastwardly to form a square figure as nearly as the vacancy will admit, for to include the quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

December 31st, 1782. John McIntire enters 1,500 acres, remaining part of a Treasury warrant No. 11,599, to adjoin Nicholas McIntire's location of 1,000 acres on the south side, on a dividing ridge, and to include some of the head drains of Stoner's fork; then to run south to form a square as near as the vacancy will admit, to include the quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

21st December, 1782. Thomas Swearingen, assignee of John Fleming, assignee, &c., enters 1,000 acres of land on a Treasury warrant No. 6,985, lying on a dividing ridge between the waters of Hingston's and the creek emptying into said fork, the north side thereof, just above the upper salt spring trace, to begin at two bettywood trees, one marked I. F. and the other marked T. S., and a buckeye marked Y., standing on the east side of a small pond not far from the head of a drain of a branch where John Fleming had a cabin made in 1776; from thence east 400 poles, and then southwardly to form a square figure as nearly as the vacancy will admit, to include the quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

December 21st, 1782. Thomas Swearingen, assignee of Hubbard Taylor, enters 1,000 acres of land on a Treasury warrant No. 6,987, lying on the east side of his entry No. 1, of 1,000 acres, to begin at the northeast corner of said entry, and extending thence east 400 poles, and then southwardly to form a square figure as near as the vacancy will admit, to include the quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

18th January, 1780. James Parberry, assignee of Bottom Estes, enters 400 acres by certificate, &c., lying on Green creek, a branch of Licking, joining the land of said Parberry, assignee of Elisha Estes, to begin below Bottom Estes's improvement at a cave spring, and running up the same creek for quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

31st December, 1782. John Taylor, assignee of Joseph Berry, enters, and Reuben Proctor, assignee of John Taylor, enters 3,000 acres on part of a Treasury warrant No. 11,642, beginning on the dividing ridge between the waters of Stoner and the waters of Hingston, to join a certain entry made by Reuben Proctor, that includes the log pond, beginning upon the west line of the said entry, to extend northwest for length according to law.

A copy, RICHARD HIGGINS, *S. F. C.*

28th December, 1782. Reuben Proctor, assignee of Abraham Salley, enters 1,000 acres of land on two Treasury warrants, No. 6,076 and 6,080, on the dividing ridge between Hingston and Stoner's fork waters, beginning 80 poles southwest of the log pond, which lies about four miles below McMullin's trace, and running southeast 320 poles, thence northeast 500 poles, thence northwest 320 poles; thence southwest 500 poles, to the beginning, except some prior claims interfere; in such case, to extend the beginning

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line at each end or either end, and to bind on the line or lines of any prior entry, in such manner as to include the quantity in the most regular form.

A copy, RICHARD HIGGINS, *S. F. C.*

28th December, 1782. James Howard, assignee of David Hughes, and Charles Morgan, assignee of James Howard, &c., enters 900 acres of land on a Treasury warrant No. 7,809, to be laid off in two surveys, beginning at Reuben Proctor's second corner of his entry of 1,000 acres, that includes the log pond on the dividing ridge between Hinkston and Stoner's fork waters, and running with a line of said entry northeast 500 poles, thence southeast 288 poles to the beginning, except some prior claims interfere; in such case, to extend the beginning at each end or either end, and to bind on the line or lines of any prior entry, in such manner as to include the quantity in the most regular form.

A copy. Teste, RICHARD HIGGINS, *S. F. C.*

5th February, 1783. James Howard and Charles Morgan make the following amendment to their entry, in book the third, page 62: to add—to hold the said land as tenants in common, and not as joint tenants.

A copy, RICHARD HIGGINS, *S. F. C.*

28th February, 1780. Archibald McKinney enters 400 acres by certificate, &c., lying on Stoner's fork of Licking creek, above Stoner's land, at a buffalo path, and running north for quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

26th May, 1780. Archibald McKinney enters 1,000 acres upon a preemption warrant, on Stoner's fork of Licking, adjoining Michael Stoner above, running north and up the creek for quantity.

A copy, RICHARD HIGGINS, *S. F. C.*

April 26th, 1780. Thomas Swearingen enters 1,000 acres by military warrant, on a spring branch about six miles a northeasterly course from Stoner's spring, to include a tree marked N. B. C. S. & T., at the head of said spring.

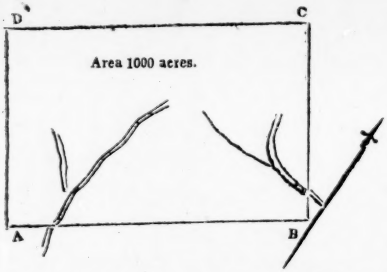
A copy, RICHARD HIGGINS, *S. F. C.*

December 9th, 1782. Nicholas McIntire offers an amendment to an entry made with the surveyor of Kentucky, on a Treasury warrant, the 19th of May, 1780: instead of a northwestwardly course from Strode's spring, it be inserted a northeastwardly course from Strode's spring.

A copy. Teste, ACHILLES SNEED, *C. C. A.*

December 14th, 1782. Nicholas McIntire offers the following amendment to his entry of 1,000 acres, made with the surveyor of Kentucky, on a Treasury warrant, the 19th May, 1780, on a drain of Licking, to wit: on the third line of the entry in the copy-book, instead of the word northwestwardly, insert northeastwardly.

A copy. Teste. ACHILLES SNEED, *C. C. A.*



Surveyed for Thomas Swearingen a tract of land, by virtue of a military warrant duly entered, lying and being in Fayette county, on the west of the Flat Lick, on the drains of said Flat Lick creek, which is a water of Hinkston's fork of Licking; which said tract of land is bounded as follows, to wit: beginning at a large ash tree standing near three sugar trees and a honey locust, on a ridge at A; running thence N. 50° E. 100 poles, to a spring branch; then the course continued, in all 400 poles, to a hackberry, honey locust, and sugar trees, standing on a ridge at B; thence N. 40° W. 90 poles, to a branch; thence, the course continued, in all 400 poles, to a large black walnut, standing nearly in the centre between three angular marked bettywood saplins, near a marked honey locust, in a cane level at D; thence S. 40° E. 400 poles, to the beginning, containing 1,000 acres.

THOMAS SWEARINGEN, *D. S. F. C.*

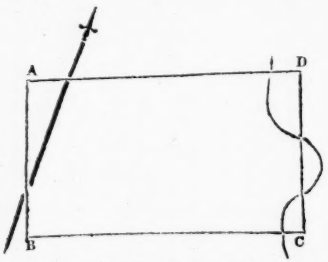
Examined and certified by

T. MARSHALL, *S. F. C.*

ISAAC CLINKINBEARD,
WILLIAM CLINKINBEARD, } *C. C.*
JOHN MCINTIRE, *Marker.*

A copy,

RICHARD HIGGINS, *S. F. C.*



Surveyed, June 3d, 1784, for Reuben Proctor, assignee of Abraham Salley, 1,000 acres of land, by virtue of an entry on two treasury warrants, Nos. 6076 & 6080, entered 25th December, 1782, situate, lying and being in the county of Fayette, on the waters of Stoner's and Hinkston's forks of Licking creek, and bounded as follows, to wit: beginning at A, two hickories, a honey locust, and box elder, 80 poles southwest of the log pond, and running southeast 320 poles to B, two sugar trees and a hickory; thence northeast 500 poles, crossing two branches, to C, a forked mulberry, buckeye, and white oak tree, on a hill side; thence northwest 320 poles, crossing a branch three times, to D, a bettywood, ash, and hoopwood; thence southwest 500 poles, to the beginning.

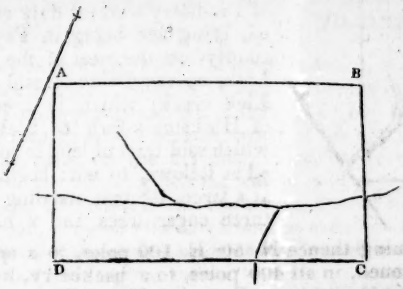
CHARLES MORGAN, *D. S.*
THOMAS MARSHALL, *S. F. C.*

Examined,
JAMES BUCKANAN,
DAVID HUGHES, } *C. C.*
REUBEN PROCTOR, *Marker.*

A copy,

RICHARD HIGGINS, *S. F. C.*

28.

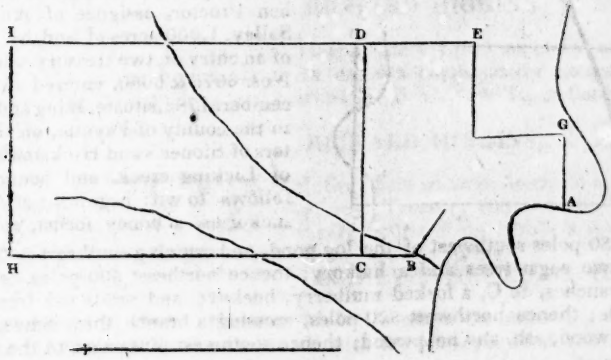


June 15th, 1784, surveyed for James Howard and Chas. Morgan, assignee, 900 acres, by virtue of a Treasury warrant, entry made 25th December, 1782, No. 8,739, situate, lying and being in the county of Fayette, on the waters of Flat Lick creek, a fork of Hingston's fork of Licking creek; beginning at A, two sugar trees and hickory, being second corner of Reuben Proctor's survey of 1,000 acres, that includes the log pond on the dividing ridge between Stoner's and Hingston's forks, and running with said Proctor's line northeast 500 poles, to his corner at B, a forked mulberry, a buckeye, and white oak tree, on the side of a hill; thence southeast 288 poles, crossing Flat Lick creek and a branch thereof, to C, a buckeye and Spanish oak, on the east side of said branch; thence southwest 500 poles, crossing three branches, to D, a hoopwood, elm, and honey locust; thence northwest 288 poles, to the beginning.

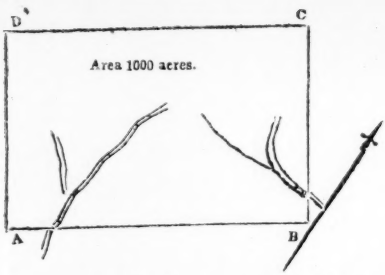
CHARLES MORGAN, *D. S. F. C.*
THOMAS MARSHALL, *S. F. C.*

Examined,
REUBEN PROCTOR, } *C. C.*
DAVID HUGHES, }
JAMES BUCHANAN, *Marker.*

A copy:
RICHARD HIGGINS, *S. F. C.*



Surveyed, January 9th, 1783, for Archibald McKinney, a settlement of 400 acres of land, by virtue of a certificate being duly entered, beginning at A, on the south side of Stoner's fork of Licking, on a buffalo path on Henry Clay's line, assignee of Stoner, at McMullin; beginning at three saplins, iron wood, white thorn, and hickory; thence running with Clay's line north 72 poles, crossing said fork; thence down the meanders of said



Surveyed for Thomas Swearingen a tract of land, by virtue of a military warrant duly entered, lying and being in Fayette county, on the west of the Flat Lick, on the drains of said Flat Lick creek, which is a water of Hinkston's fork of Licking; which said tract of land is bounded as follows, to wit: beginning at a large ash tree standing near three sugar trees and a honey locust, on a ridge at A; running thence N. 50° E. 100 poles, to a spring branch; then the course continued, in all 400 poles, to a hackberry, honey locust, and sugar trees, standing on a ridge at B; thence N. 40° W. 90 poles, to a branch; thence, the course continued, in all 400 poles, to a large black walnut, standing nearly in the centre between three angular marked bettywood saplins, near a marked honey locust, in a cane level at D; thence S. 40° E. 400 poles, to the beginning, containing 1,000 acres.

THOMAS SWEARINGEN, *D. S. F. C.*

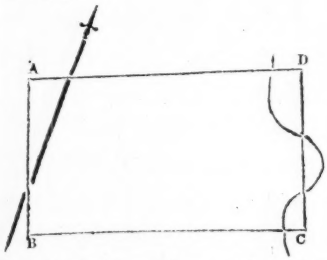
Examined and certified by

T. MARSHALL, *S. F. C.*

ISAAC CLINKINBEARD,
WILLIAM CLINKINBEARD, } *C. C.*
JOHN MCINTIRE, *Marker.*

A copy,

RICHARD HIGGINS, *S. F. C.*



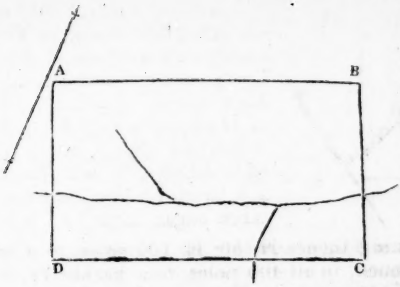
Surveyed, June 3d, 1784, for Reuben Proctor, assignee of Abraham Salley, 1,000 acres of land, by virtue of an entry on two treasury warrants, Nos. 6076 & 6080, entered 25th December, 1782, situate, lying and being in the county of Fayette, on the waters of Stoner's and Hinkston's forks of Licking creek, and bounded as follows, to wit: beginning at A, two hickories, a honey locust, and box elder, 80 poles southwest of the log pond, and running southeast 320 poles to B, two sugar trees and a hickory; thence northeast 500 poles, crossing two branches, to C, a forked mulberry, buckeye, and white oak tree, on a hill side; thence northwest 320 poles, crossing a branch three times, to D, a bettywood, ash, and hoopwood; thence southwest 500 poles, to the beginning.

CHARLES MORGAN, *D. S.*
THOMAS MARSHALL, *S. F. C.*

Examined,
JAMES BUCKANAN,
DAVID HUGHES, } *C. C.*
REUBEN PROCTOR, *Marker.*

A copy,

RICHARD HIGGINS, *S. F. C.*



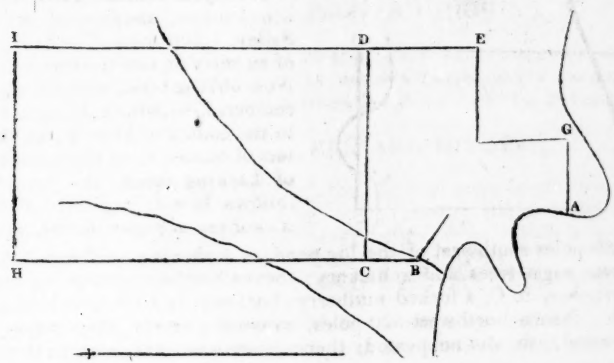
June 15th, 1784, surveyed for James Howard and Chas. Morgan, assignee, 900 acres, by virtue of a Treasury warrant, entry made 25th December, 1782, No. 8,739, situate, lying and being in the county of Fayette, on the waters of Flat Lick creek, a fork of Hingston's fork of Licking creek; beginning at A, two sugar trees and hickory, being second corner of Reuben Proctor's survey of 1,000 acres, that includes the log pond on the dividing ridge between Stoner's and Hingston's forks, and running with said Proctor's line northeast 500 poles, to his corner at B, a forked mulberry, a buckeye, and white oak tree, on the side of a hill; thence southeast 288 poles, crossing Flat Lick creek and a branch thereof, to C, a buckeye and Spanish oak, on the east side of said branch; thence southwest 500 poles, crossing three branches, to D, a hoopwood, elm, and honey locust; thence northwest 288 poles, to the beginning.

CHARLES MORGAN, *D. S. F. C.*
THOMAS MARSHALL, *S. F. C.*

Examined,
REUBEN PROCTOR,
DAVID HUGHES, } *C. C.*
JAMES BUCHANAN, *Marker.*

A copy:

RICHARD HIGGINS, *S. F. C.*



Surveyed, January 9th, 1783, for Archibald McKinney, a settlement of 400 acres of land, by virtue of a certificate being duly entered, beginning at A, on the south side of Stoner's fork of Licking, on a buffalo path on Henry Clay's line, assignee of Stoner, at McMullin; beginning at three saplins, iron wood, white thorn, and hickory; thence running with Clay's line north 72 poles, crossing said fork; thence down the meanders of said

fork, on Clay's line, N. 78° W. 90 poles, N. 2° E. 32 poles, N. 48° E. 22 poles, N. 70° E. 116 poles, N. 50° W. 80 poles, N. 70° W. 50 poles; leaving the fork, running on Clay's line N. 60° W. 52 poles, cornering at a hoopwood at B; thence north 71 poles to the corner of the settlement at C, hoopwood and buckeye; thence east 313 poles to D, a dogwood, white ash, and sugar tree; thence south 146 poles to E, at Muse's corner of his settlement, at a sugar tree; thence west with Muse's line 146 poles to F, a buckeye and white ash; thence with said Muse's second line, south 158 poles, to G. at three sugar trees; thence west 90 poles, to the beginning.

Also, 1,000 acres of land, adjoining the settlement, beginning at C, running north 510 poles to H, a buckeye and black ash; thence east 513 poles to I, a dogwood, white ash, and sugar tree; thence south 510 poles to D; thence west 313 poles to the settlement line, to the beginning.

GEORGE BARNETT, *D. S. F. C.*
THOMAS MARSHALL, *S. F. C.*

Examined,
JOHN MCKINNEY, } *Chain Carriers.*
JOHN BRUCE, }
ARCHIBALD MCKINNEY, *Marker.*

A copy: RICHARD HIGGINS, *S. F. C.*

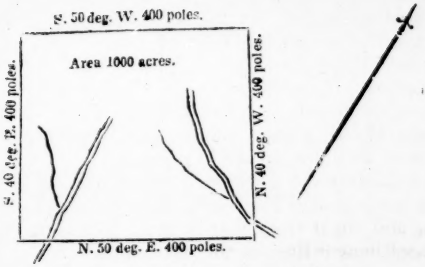
Surveyed, June 4th, 1785, for John Taylor and Reuben Proctor, assignee, 3,000 acres of land, by virtue of an entry on part of a Treasury warrant, No. 11,642, entered 31st December, 1782, situate, lying and being in the county of Fayette, on the waters of Stoner's and Hinkston's forks of Licking creek, and bounded as follows, to wit: beginning at A, two hickories, a honey locust, and box elder, beginning corner of Reuben Proctor's tract of 1,000 acres, 80 poles southwest of the log pond, and running northwest 960 poles, crossing three large branches of Stoner's fork, to B, two buckeyes and two honey locusts, on a ridge; thence northeast 500 poles, crossing three large branches of Hinkston's fork, to C, a buckeye and elm, on the northeast side of a branch, near a buffalo road; thence southeast 960 poles, crossing four branches of Hinkston's fork, at D, a bettywood, ash, and hoopwood, corner to said Proctor's 1000 acre tract; thence with the line of said tract, southwest, 500 poles, crossing the log pond, to the beginning.

CHARLES MORGAN, *D. S. F. C.*
T. MARSHALL, *S. F. C.*

JAMES BUCHANAN, } *C. C.*
DAVID HUGHES, }
REUBEN PROCTOR, *Pilot and Marker.*

A copy: RICHARD HIGGINS, *S. F. C.*

29.



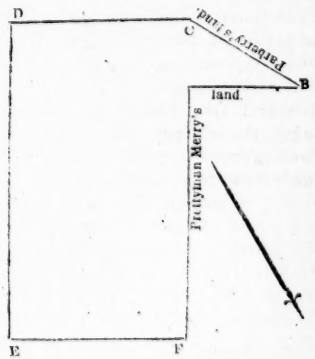
Surveyed for Thomas Swearingen, a tract of land, by virtue of a military warrant duly entered, lying and being in Fayette county, on the west of the Flat Lick, on the drains of said Flat Lick creek, which is a water of Hinkston's fork of Licking; which said tract of land is bounded as followeth, to wit: beginning at a large ash tree standing near three marked sugar trees and a honey locust, on a ridge at A, and running thence N. 50° E. 100 poles, to a spring branch; then the course continued, in all 400 poles, to a hackberry, honey locust, and sugar tree, standing on a ridge at B; thence N. 40° W. 90 poles, to a branch; thence the course continued, in all 400 poles, to a large black walnut tree, standing nearly in the centre between three angular marked bettywood saplins, at *b;* thence S. 50° W. 400 poles, to two bettywood saplins, near a marked honey locust, in a cane level at D; thence S. 40° E. 400 poles, to the beginning, containing 1,000 acres. By me,

June 13th, 1783. THOS. SWEARINGEN, *D. S. F. C.*
THOMAS MARSHALL, *S. F. C.*

ISAAC CLINKINBEARD,
WILLIAM CLINKINBEARD, } *C. C.*
JOHN MCINTIRE, *Marker.*

A copy. Teste:

MARK HARDIN, *Register.*



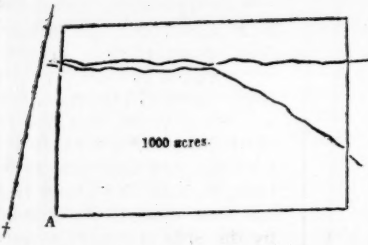
June 5th, 1784. Surveyed for Cave Johnson 800 acres of land, by virtue of two treasury warrants, Nos. 6604, 5014, duly entered, June 1st, 1784, situate in the county of Fayette, on the waters of Licking, and bounded as follows: beginning at A, buckeye, corner to Prettyman Merry's land, thence N. 50° W. 140 poles, to James Parberry's line of his pre-emption, at a hickory and buckeye; thence with his line S. 20° E. 150 poles, to C, a buckeye and two sugar trees, at James Parberry's line; thence S. 50° E. 260 poles, to D, a large hickory, hoopwood hickory, and buckeye; thence N. 40° E. 493 poles, to ash at E; thence N. 50° W. 250 poles, to F, sugar tree in Prettyman Merry's line; thence with his line S. 40° W. 418 poles, to the beginning.

CAVE JOHNSON, *D. S. F. C.*
THOS. MARSHALL, *S. F. C.*

Examined,
RICHARD TAYLOR,
MICHAEL STUCKER,
JAMES TWYMAN, *Marker.*

A copy:

RICHARD HIGGINS, *S. F. C.*



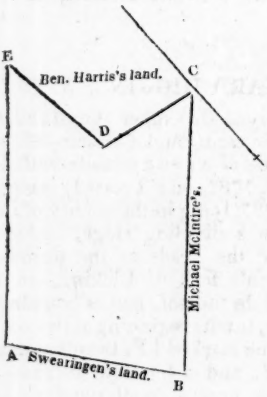
Surveyed, Dec'r 19th, 1783, for Nicholas McIntire, by virtue of a Treasury warrant, No. 2,543, entered May 19th, 1780, a tract of land, situate, lying and being upon the waters of Flat creek and Hinkston's fork of Licking, in the county of Fayette, and bounded as follows, to wit: beginning at a walnut, thorn, and young elm, corner to Davis; thence S. 10° E., crossing a branch, 320 poles, to a honey locust, elm, and cherry tree; thence S. 80° W. 500 poles, to an elm and sugar tree, by a drain; thence N. 10° W., crossing several drains of Hinkston's fork, 320 poles, to a hickory and hoopwood, a corner to Davis; thence N. 80° E., along his line, to the beginning, containing 1,000 acres. By

JOS. BENNETT, *D. S. F. C.*
THOMAS MARSHALL, *S. F. C.*

Examined,
MICHAEL CASSIDY, } *C. C.*
JOHN MCINTIRE, }
WM. CLINKINBEARD, *Marker.*

A copy:

RICHARD HIGGINS, *S. F. C.*



FAYETTE COUNTY, *sct.*

February 21st, 1784. Surveyed for John McIntire 500 acres of land, on part of a Treasury warrant, No. 11,599, entered December 31st, 1782, situate, lying and being on the dividing ridge between Hinkston and Stoner's forks of Licking, adjoining Michael McIntire's survey of 1,000 acres, on the most south side, and bounded as follows, to wit: beginning at a buckeye and hackberry, standing in the line of Thomas Swearingen's survey of 1000 acres, running thence N. 40° W. 232 poles, along said line to B, two hickories and two sugar trees, corner to Nicholas McIntire's survey; thence S. 45° W. 398 poles, along said McIntire's line, to C, a bettywood and white oak, standing on said line, and corner to Benjamin Harris's survey of 1,000 acres; thence east 180 poles, along said Harris's line, to D, two sugar trees; thence south 220 poles, along Harris's line, to E, a stake in said line; thence N. 39° E. 408 poles, to the beginning.

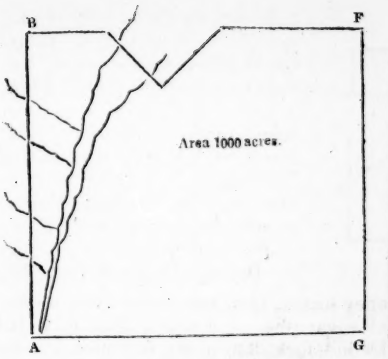
WILLIAM TRIPLETT, *D. S.*
THOMAS MARSHALL, *S.*

Examined,
BENJAMIN COUCHMAN, } *C. C.*
FREDERICK COUCHMAN, }
JOHN MCINTIRE, *Marker.*

A copy:

RICHARD HIGGINS, *S. F. C.*

30.



FAYETTE COUNTY, *sct.*

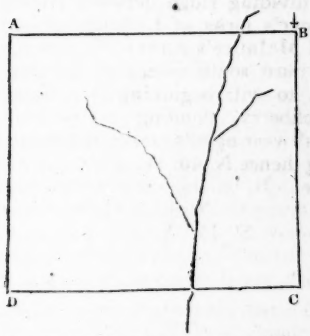
Surveyed, Feb'y 20th, 1784, for Benj. Harris, 1,000 acres of land, by virtue of a Treasury warrant, No. 7935, entered December 23d, 1782, situate, lying and being on the waters of the north side of Stoner's fork of Licking, and bounded as follows, to wit: beginning at A, ash tree marked T, standing by the side of a run; running thence north 400 poles, to B, two white hickories and hackberry; thence east 100 poles, to C, a stake in Nicholas McIntire's line; thence S. 45° E. 88 poles, along said line, to the corner at D, two bettywoods and a black walnut; thence S. 45° E. 88 poles, along said McIntire's line, to E, a bettywood and white oak, in said line; thence east 188 poles, to F, two sugar trees; thence south 400 poles, to G, an ash and hoopwood, standing in the forks of a branch; thence west 412 poles, to the beginning.

WM. TRIPLETT, *D. S. F. C.*
THOMAS MARSHALL, *S.*

Examined,
BENJAMIN COUCHMAN, } *C. C.*
FREDERICK COUCHMAN, }
JOHN MCINTIRE, *Marker.*

A copy:

RICHARD HIGGINS, *S. F. C.*



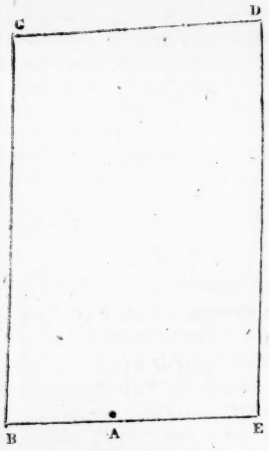
Surveyed December 26th, 1783, for Thos. Swearingen, 1,000 acres of land, by virtue of an entry made 26th December, 1782, on a Treasury warrant, No. 6,985, lying in the county of Fayette, on a dividing ridge, including some of the heads of the drains of Hingston's fork of Licking, on the north side thereof, and is bounded as follows, to wit: beginning at two bettytrees, one marked I F, the other marked T S, and a buckeye marked Y, standing near a small pond on said ridge, near the head of Fleming's branch, as per entries, and running thence east 400 poles, to two elms and a honey locust; thence south 400 poles, to a buckeye, hackberry, and sugar trees; thence west 400 poles, to two hickories and buckeye; thence north 400 poles, to the beginning. By

THOS. SWEARINGEN, *D. S. F. C.*
THOMAS MARSHALL, *S. F. C.*

Examined,
ISAAC CLINKINBEARD, } *C. C.*
ISAAC CONSTANT, }
VAN SWEARINGER, *Marker.*

A copy:

RICHARD HIGGINS, *S. F. C.*



BOURBON COUNTY, *April* 9, 1804.

Surveyed for the heirs of Henry Miller, deceased, 1,687 acres of land, by virtue of an entry made December 10, 1782, on a Treasury warrant, No. 6,168, situate, lying and being in the county of Bourbon, and bounded as followeth, to wit: beginning at A, a stake, the northwest corner of an entry of 200 acres, made 29th November, 1782, in the name of Isaac Christian, and running thence west 200 poles, crossing a branch, to a buckeye and box elder marked H M H, at B; thence north, crossing Flat run at 360 poles, crossing a branch at 428 poles and at 560 poles, course continued, in all 674 $\frac{8}{10}$ poles, to C, a black locust, dead mulberry, hickory, and box elder, marked H M H; thence east, crossing several small branches, 400 poles, to D, a stake in a field; thence south 674 $\frac{8}{10}$ poles, crossing several branches of Hingston, at E, an ash, box elder, and sugar tree, marked H M H, standing on the north side of a branch, a water of Stoner, northeast corner to the above recited entry, standing in the line of an entry of 4,000 acres, made in the name of Chapman Austin; thence with the line of Israel Christian's entry, west, 200 poles, to the beginning.

Z. EASTIN, *S. B. C.*

JOHN MALCOM, } *C. C.*
JAMES MALCOM, }
JOHN CURRY, *Marker.*

The original survey of which the above is a true copy, was filed in the land office the 27th December, 1804.

Teste,

JAMES Y. LOVE,
Deputy Register, for John M. Foster, Register Land Office.

Benjamin Harrison, Esq., Governor of the Commonwealth of Virginia, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of part of a land office Treasury warrant No. 2,543, issued the 12th day of February, 1780, there is granted by the said Commonwealth unto Nicholas McIntire a certain tract or parcel of land, containing one thousand acres, by survey bearing date the 30th day of July, 1783, lying and being in the county of Fayette, on a dividing ridge between Stoner's and Hinkston's forks of Licking, and bounded as followeth, to wit: beginning at a large ash tree, near three sugar trees, and a honey locust marked, on a ridge, it being the beginning of a survey made for Thomas Swearingen, and extending thence south forty-five degrees east, twenty poles, to two hickory saplins, nearly in the centre between two marked sugar trees; thence south forty-five degrees east, four hundred and eighty-six poles, to a large black walnut, and four betty trees, north forty-five degrees west, three hundred and twenty poles to three sugar trees; thence north forty-five

31.

degrees east, five hundred and fourteen poles, to a betty, two ash, and a sugar tree, at the line of the said Swearingen; thence south forty degrees east, three hundred poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Nicholas McIntire, and his heirs for ever.

In witness whereof, the said Benjamin Harrison, Esq., Governor of the Commonwealth of Virginia, hath hereunto set his hand, and caused the lesser seal of the said Commonwealth to be affixed, at Richmond, on the fifteenth day of June, in the year of our Lord one thousand seven hundred and eighty-four, and of the Commonwealth the eighth.

BENJAMIN HARRISON.

A copy. Teste, JOHN M. FOSTER, *R. L. Off.*
By John L. Moore, D. R.

Benjamin Harrison, Esq., Governor of the Commonwealth of Virginia, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of part of a military warrant under the King of 1763, No. 143, and issued the 30th October, 1779, there is granted by the said Commonwealth unto Thomas Swearingen a certain tract or parcel of land, containing one thousand acres, by survey bearing date the 13th day of January, 1783, lying and being in the county of Fayette, on the west of the Flat Lick, on the drains of said Flat Lick creek, which is a water of Hingston's fork of Licking, and bounded as followeth, to wit: beginning at a large ash tree, standing near the marked sugar trees, and a honey locust, on a ridge; and running thence north fifty degrees east, one hundred poles, to a spring branch; then the course continued, in all four hundred, to a hackberry, honey locust, and sugar tree, standing on a ridge; thence north forty degrees west, ninety poles, to a branch; thence the course continued, in all four hundred poles, to a large black walnut tree, standing nearly in the centre, between three angular bettywood saplins; thence south fifty degrees west, four hundred poles, to two bettywood saplins, near a marked honey locust, in a cane level; thence south forty east, four hundred poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Thomas Swearingen, and his heirs for ever.

In witness whereof, the said Benjamin Harrison, Esq., Governor of the Commonwealth of Virginia, hath hereunto set his hand, and caused the lesser seal of the said Commonwealth to be affixed, at Richmond, on the 13th day of December, in the year of our Lord one thousand seven hundred and three, and of the Commonwealth the eighth.

BENJAMIN HARRISON.

A copy. Teste, MARK HARDIN, *Register.*

James Garrard, Esq., Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of a land office Treasury warrant, No. 7,363, there is granted by the said Commonwealth unto John Martin a certain tract or parcel of land, containing two thousand acres, surveyed the 26th day of May, 1798, lying and being in the county of Bourbon, and bounded as followeth, to wit: beginning at an ash and sugar tree, southeast corner of a survey of six hundred and sixty-six acres of said Martin's, and running, and joining his east side, north three hundred and sixty-five poles, to his northeast corner, hickory, buckeye, and box elder; thence north forty-two east, twelve

hundred and twelve poles, to the southwest corner of William McClelland's settlement and pre-emption; thence with said line south fifty east, three hundred and sixty-four poles, to Shepherd's line; thence with his line, south forty-five degrees west, fifteen poles, to Shepherd's beginning; still with Shepherd's lines south forty-five east, eight hundred poles, to his corner; still with his line north forty-five east, one hundred and fifty-six poles, to John South's settlement and pre-emption; thence with South's lines, south two hundred and ninety-six poles; thence, and still with South's lines, west, one hundred and twenty poles, to William Wood's line, north seventy poles; still with Wood's lines, west four hundred poles; thence south four hundred poles to Wood's corner; thence south thirty-three degrees east, three hundred and thirty poles, to Henderson's beginning of his settlement and pre-emption; thence north sixty-three west, seven hundred and forty-eight poles, corner Archibald McKinney's settlement and pre-emption; thence with his line and Bowman's west seven hundred and seventy-two poles, to three sugar trees, corner to Bowman's survey; thence north forty-four degrees east, one hundred and thirty-eight poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said John Martin, and his heirs for ever.

In witness whereof, the said James Garrard, Esq., Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said Commonwealth to be affixed, at on the 30th day of June, in the year of our Lord one thousand seven hundred and ninety-nine, and of the Commonwealth the eighth.

JAMES GARRARD.

By the Governor,
HARRY TOULMIN.

A copy. Teste, JOHN ADAIR, *R. L. Off.*

Grant issued to James Speed for five thousand nine hundred and sixty-two acres of land, in Bourbon county, on the northeast side of Stoner's fork of Licking, on the 18th day of May, 1800.

JOHN ADAIR, *R. L. Off.*

Gabriel Slaughter, Esq., Lieut. Governor and acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of land office warrant No. 6,168, entered the 10th day of December, 1782, there is granted by the said Commonwealth unto the heirs of Henry Miller, deceased, a certain tract or parcel of land, containing sixteen hundred and eighty-seven acres, by survey bearing date the ninth day of April, one thousand eight hundred and four, and bounded as followeth, to wit: beginning at a stake, the northwest corner of an entry of two hundred acres, made the 29th day of November, 1782, in the name of Israel Christian; and running thence west two hundred poles, crossing a branch, to a buckeye and box elder, marked H M H; thence north, crossing Flat run, at three hundred and sixty poles, crossing a branch at four hundred and twenty-eight poles, and at five hundred and sixty poles, course continued, in all six hundred and seventy-four eight-tenths poles, to a black locust, dead mulberry, hickory, and box elder, marked H M H; thence east, crossing several small branches, four hundred

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poles to a stake in a field; thence south six hundred and seventy four eight-tenths poles, crossing several branches of Hingston's, to an ash, box elder, and sugar tree, marked H M H, standing on the north side of a branch, a water of Stoner, northeast corner, to the above recited entry, standing in the line of an entry of four thousand acres, made in the name of Chapman Austin; thence with the line of said Christian's entry, west two hundred poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said heirs of Henry Miller, deceased, and their heirs for ever.

In witness whereof, the said Gabriel Slaughter, Esq., Lieutenant Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said Commonwealth to be affixed, at Frankfort, on the nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the Commonwealth the twenty-ninth.

[L. S.] GABRIEL SLAUGHTER.

By the Lieutenant Governor,

O. G. WAGGONER, *Secretary*.

Henry Miller's heirs have a title to the within tract of land.

A. P. COX, *Deputy*,
For John M. Foster, R. L. O.

This indenture, made this 4th day of August, in the year of our Lord one thousand eight hundred and eight, between Isaac McIntire, and Elizabeth his wife, of the county of Fleming, and Commonwealth of Kentucky, and John McIntire, of the county and Commonwealth aforesaid, of the other part, witnesseth: that the said John McIntire, and Elizabeth his wife, for and in consideration of the sum of five pounds, current money, to them in hand paid, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell, relinquish, and confirm, unto the said John McIntire, his heirs and assigns, one full equal moiety of one thousand acres of land, lying now in Bourbon county, on the waters of Flat run, and a large branch putting into Stoner fork on the north side, entered and surveyed in the name of Nicholas McIntire, by patent bearing date the 2d day of December, 1785, which original tract is bounded as follows, to wit: beginning at a large ash tree marked, near three sugar trees and honey locusts on a ridge, it being the beginning of a 1,000 acre survey made in the name of Thomas Swearingen, and runs south 45° E. 20 poles to hickory saplings nearly in the centre between two marked sugar trees; thence S. 45° W. 486 poles to a large black walnut and four betty trees; thence N. 45° W. 320 poles to three sugar trees; thence N. 45° E. crossing Flat run, 514 poles, to a bettywood, ash, and sugar tree, at the line of the said Swearingen; thence S. 40° E. 300 poles, to the beginning, being part of the original tract of 1,000 acres, Nicholas McIntire, deceased, in his lifetime, left to his son, said Isaac McIntire, by his last will and testament in writing, bearing date the 20th day of March, 1805; together with all and singular the premises thereunto belonging or in any wise appertaining. To have and to hold the land hereby conveyed, with the appurtenances, unto the said John McIntire, his heirs and assigns for ever: and the said Isaac McIntire, and Elizabeth his wife, for their heirs, executors, and administrators, the aforesaid moiety or tract of land and premises unto the said John McIntire, his heirs and assigns, against the claim or claims of all

hundred and twelve poles, to the southwest corner of William McClelland's settlement and pre-emption; thence with said line south fifty east, three hundred and sixty-four poles, to Shepherd's line; thence with his line, south forty-five degrees west, fifteen poles, to Shepherd's beginning; still with Shepherd's lines south forty-five east, eight hundred poles, to his corner; still with his line north forty-five east, one hundred and fifty-six poles, to John South's settlement and pre-emption; thence with South's lines, south two hundred and ninety-six poles; thence, and still with South's lines, west, one hundred and twenty poles, to William Wood's line, north seventy poles; still with Wood's lines, west four hundred poles; thence south four hundred poles to Wood's corner; thence south thirty-three degrees east, three hundred and thirty poles, to Henderson's beginning of his settlement and pre-emption; thence north sixty-three west, seven hundred and forty-eight poles, corner Archibald McKinney's settlement and pre-emption; thence with his line and Bowman's west seven hundred and seventy-two poles, to three sugar trees, corner to Bowman's survey; thence north forty-four degrees east, one hundred and thirty-eight poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said John Martin, and his heirs for ever.

In witness whereof, the said James Garrard, Esq., Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said Commonwealth to be affixed, at on the 30th day of June, in the year of our Lord one thousand seven hundred and ninety-nine, and of the Commonwealth the eighth.

JAMES GARRARD.

By the Governor,
HARRY TOULMIN.

A copy. Teste, JOHN ADAIR, *R. L. Off.*

Grant issued to James Speed for five thousand nine hundred and sixty-two acres of land, in Bourbon county, on the northeast side of Stoner's fork of Licking, on the 18th day of May, 1800.

JOHN ADAIR, *R. L. Off.*

Gabriel Slaughter, Esq., Lieut. Governor and acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of land office warrant No. 6,168, entered the 10th day of December, 1782, there is granted by the said Commonwealth unto the heirs of Henry Miller, deceased, a certain tract or parcel of land, containing sixteen hundred and eighty-seven acres, by survey bearing date the ninth day of April, one thousand eight hundred and four, and bounded as followeth, to wit: beginning at a stake, the northwest corner of an entry of two hundred acres, made the 29th day of November, 1782, in the name of Israel Christian; and running thence west two hundred poles, crossing a branch, to a buckeye and box elder, marked H M H; thence north, crossing Flat run, at three hundred and sixty poles, crossing a branch at four hundred and twenty-eight poles, and at five hundred and sixty poles, course continued, in all six hundred and seventy-four eight-tenths poles, to a black locust, dead mulberry, hickory, and box elder, marked H M H; thence east, crossing several small branches, four hundred

32.

poles to a stake in a field; thence south six hundred and seventy four eight-tenths poles, crossing several branches of Hingston's, to an ash, box elder, and sugar tree, marked H M H, standing on the north side of a branch, a water of Stoner, northeast corner, to the above recited entry, standing in the line of an entry of four thousand acres, made in the name of Chapman Austin; thence with the line of said Christian's entry, west two hundred poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said heirs of Henry Miller, deceased, and their heirs for ever.

In witness whereof, the said Gabriel Slaughter, Esq., Lieutenant Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said Commonwealth to be affixed, at Frankfort, on the nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the Commonwealth the twenty-ninth.

[L. S.] GABRIEL SLAUGHTER.

By the Lieutenant Governor,
O. G. WAGGONER, *Secretary*.

Henry Miller's heirs have a title to the within tract of land.

A. P. COX, *Deputy*,
For John M. Foster, R. L. O.

This indenture, made this 4th day of August, in the year of our Lord one thousand eight hundred and eight, between Isaac McIntire, and Elizabeth his wife, of the county of Fleming, and Commonwealth of Kentucky, and John McIntire, of the county and Commonwealth aforesaid, of the other part, witnesseth: that the said John McIntire, and Elizabeth his wife, for and in consideration of the sum of five pounds, current money, to them in hand paid, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell, relinquish, and confirm, unto the said John McIntire, his heirs and assigns, one full equal moiety of one thousand acres of land, lying now in Bourbon county, on the waters of Flat run, and a large branch putting into Stoner fork on the north side, entered and surveyed in the name of Nicholas McIntire, by patent bearing date the 2d day of December, 1785, which original tract is bounded as follows, to wit: beginning at a large ash tree marked, near three sugar trees and honey locusts on a ridge, it being the beginning of a 1,000 acre survey made in the name of Thomas Swearingen, and runs south 45° E. 20 poles to hickory saplings nearly in the centre between two marked sugar trees; thence S. 45° W. 486 poles to a large black walnut and four betty trees; thence N. 45° W. 320 poles to three sugar trees; thence N. 45° E. crossing Flat run, 514 poles, to a bettywood, ash, and sugar tree, at the line of the said Swearingen; thence S. 40° E. 300 poles, to the beginning, being part of the original tract of 1,000 acres, Nicholas McIntire, deceased, in his lifetime, left to his son, said Isaac McIntire, by his last will and testament in writing, bearing date the 20th day of March, 1805; together with all and singular the premises thereunto belonging or in any wise appertaining. To have and to hold the land hereby conveyed, with the appurtenances, unto the said John McIntire, his heirs and assigns for ever: and the said Isaac McIntire, and Elizabeth his wife, for their heirs, executors, and administrators, the aforesaid moiety or tract of land and premises unto the said John McIntire, his heirs and assigns, against the claim or claims of all

and every person or persons whatsoever, claiming by, through, or under them, doth and will warrant and for ever defend: and it is clearly understood by the parties that the said Isaac McIntire, and Elizabeth his wife, only sells and relinquishes their right and title thereto, and is not to be responsible for the consideration or value of said land in any event whatever. The said John McIntire purchasing and taking the relinquishment of said Isaac McIntire, and Elizabeth his wife, of said land, and agrees to run whatever risk may attend it. In witness whereof, the said Isaac McIntire, and Elizabeth his wife, hath hereunto set their hands and seals, the day and date first above written.

ISAAC McINTIRE, [SEAL.]

her
ELIZABETH × McINTIRE. [SEAL.]
mark

Acknowledged in presence of
AARON McINTIRE,
THOMAS McINTIRE,
his
DANIEL × MORGAN.
mark

STATE OF KENTUCKY, *Fleming county*, sct.

I, Leaken D. Stockton, deputy clerk of the county court for the county aforesaid, being duly authorized by law to receive the relinquishment of dower, do certify that Elizabeth McIntire, wife of the within named Isaac McIntire, this day personally appeared before me, and being privately, separate and apart from her husband, examined as the law directs, relinquished her dower and right of dower to the lands hereby and herein conveyed to the said John McIntire, and desired that her said relinquishment might be as such recorded. Given under my hand as deputy clerk of the court for the county aforesaid, the 29th day of August, 1808.

LEAKEN D. STOCKTON, *D. C.*

FLEMING COUNTY, sct.

I, Leaken D. Stockton, deputy clerk of the court for the county aforesaid, do certify that the foregoing indenture of bargain and sale from Isaac McIntire, and Elizabeth his wife, to John McIntire, was this day produced before me, and acknowledged according to law, and is, together with the certificate of relinquishment of dower, and this certificate, duly recorded in said office. Given under my hand this 29th day of August, 1808.

LEAKEN D. STOCKTON, *D. C.*

This indenture, made this day of June, one thousand seven hundred and ninety-nine, between Rawleigh Morgan, and Lydia his wife, Thomas Swearingen, and Margaret his wife, Asera Thornbury, and Drusilla his wife, of the State of Virginia, Andrew Swearingen, and Mary his wife, of the State of Kentucky, heirs and representatives of Thomas Swearingen, deceased, of the one part, and William Wright, of the county of Bourbon, State of Kentucky, of the other part, witnesseth: that the said Rawling Morgan, for and in consideration of the sum of three hundred pounds, current money of Kentucky, in hand paid, the receipt of which is hereby acknowledged, hath bargained and sold, and by these presents doth bargain and sell, unto the said William Wright, and his heirs for ever, one certain tract or parcel of land, lying and being in the county of Bourbon, it being part of a 1,000

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acre survey, made in the name of Thomas Swearingen, on the waters of the west side of Flat run, which empties into Hinkston's fork on the south side below the salt spring trace from Harrod's lick to the lower salt spring, and bounded as follows, to wit: beginning at (A) three white hickories on the line of the said survey, corner to Samuel and William Black's 578 acre tract of land laid out of the said survey, and running with the line of the survey N. 49° E., 100 poles, to (B) a buckeye near two marked hickories near the said line; thence S. 40° E., 320 poles, to (C) honey locust, two hickories and box elder; thence S. 59° W., 100 poles, to (D) hickory, buckeye, and sugar tree, on said Black's line; thence with the line, N. 40° W., 320 poles, to the beginning, containing 200 acres. To have and to hold the said two hundred acres of land, with its appurtenances, to him, the said William Wright, and his heirs for ever; and the said Rawleigh Morgan, for himself, and his heirs, and all persons claiming under him or them, and from the claim of all persons whatever, will warrant and for ever defend the title of the said two hundred acres of land to the said Wright and his heirs for ever. In testimony whereof, the parties to this deed have affixed their hands and seals, the day and date as above.

RAWLEIGH MORGAN, [SEAL.]
LYDIA MORAN, [SEAL.]
THOMAS SWEARINGEN, [SEAL.]
MARGERRY SWEARINGEN, [SEAL.]
AZARIAH THORNBURY, [SEAL.]
DRUSILLA THORNSBURY, [SEAL.]
ANDREW SWEARINGEN, [SEAL.]
POLLY SWEARINGEN, [SEAL.]

Signed, sealed, and acknowledged, in the presence of
JOSEPH DUNCAN,
DAVID LEER,
JOHN WRIGHT,
DAVID BEDINGER,
DANIEL MORGAN.

JACOB BEDINGER,
DANIEL MORGAN,
Witnesses as to Andrew and Mary Swearingen.

SAMUEL WRIGHT, *to all except Rawleigh Morgan.*

BOURBON COUNTY, *January 8th*, 1800.

This deed of bargain and sale, from Rawleigh Morgan, and others, to William Wright, was proved by the oath of Joseph Duncan, David Leer, and John Wright, subscribing witnesses thereto, and ordered to be recorded.
Teste, THOMAS ARNOLD, *C. B. C.*

JEFFERSON COUNTY, sct.

On the 11th day of September, 1802, Andrew Swearingen, and Mary his wife, of and from the State of Kentucky, came before us, the subscribers, justices of the peace for the county of Jefferson, and Commonwealth of Virginia, and acknowledged the aforegoing indenture of bargain and sale.

JACOB BEDINGER,
DANIEL MORGAN.

BOURBON CIRCUIT, *March 1st*, 1803.

I do certify that this deed of bargain and sale from the heirs of Thomas Swearingen, deceased, to William Wright, with the several certificates thereon endorsed, also the dedimus for the privy examination of femes therein mentioned, and the certificate of the execution thereof endorsed, was produced to me, and that the same is admitted to record.

Attest, THOMAS ARNOLD, *C. B. C. C.*

JEFFERSON COUNTY, VIRGINIA, sct.—*The Commonwealth of Virginia to Joseph Swearingen, John Kearsley, Jacob Bedinger, and Daniel Morgan, gentlemen, justices of Jefferson county, greeting:*

Whereas Rawleigh Morgan, and Lydia his wife, and Thomas Swearingen, and Margery his wife, and Azariah Thornburg, and Drusilla his wife, and Andrew Swearingen, and Mary his wife, by their certain indenture, bearing date the seventh day of February, one thousand eight hundred and one, have sold and conveyed unto William Wright, of Bourbon county, in the State of Kentucky, the fee simple estate of and in a certain tract of land, lying and being in the county of Montgomery, and in the said State of Kentucky, containing two hundred acres; and whereas the said Lydia, Margery, and Drusilla, cannot conveniently travel to the court of our said county of Berkley, to acknowledge the same; therefore we command you, or any two or more of you, that you personally go to the said Lydia, Margery, and Drusilla, and receive their acknowledgments thereof, and examine them privately and apart from their said husbands, whether they do the same freely and voluntarily, and without their persuasions or threats, and whether they are willing the same shall be recorded in our said county court, together with this commission annexed; and when you have received their acknowledgments, and examined them as aforesaid, that you distinctly and plainly certify us thereof, under you hands and seals, sending then there this writ and the said indenture. Witness George Hite, clerk of our said court, at the court-house aforesaid, the 27th day of May, 1802, and in the 26th year of the Commonwealth.

GEORGE HITE.

JEFFERSON COUNTY, VIRGINIA, sct.

In obedience to the within commission, to us directed, we, the underwritten justices of the peace for the said county, have this day duly examined Lydia, the wife of Raleigh Morgan, Margery, the wife of Thomas Swearingen, and Drusilla, the wife of Azariah Thornburg, and Polly, the wife of Andrew Swearingen, as the law directs, and do certify that they acknowledged the annexed deed in due form of law, that they did the same without the persuasions or threats of their said husbands, but did the same freely and voluntarily, and that they are willing that the same shall be recorded. Given under our hands and seals this 27th day of May, 1802.

DANIEL MORGAN, [SEAL.]
JACOB BEDINGER, [SEAL.]

VIRGINIA, to wit:

At a court held for Jefferson county, the 14th day of September, 1802, this indenture was proved by the oaths of Daniel Morgan, Jacob Bedinger, and Samuel Wright, witnesses thereto as to all the grantors except Raw-

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leigh Morgan; which, together with the commission annexed for taking the acknowledgment and privy examination of Lydia, the wife of said Rawleigh Morgan, Margery, the wife of the said Thomas Swearingen, Drusilla, the wife of Azariah Thornburg, and Polly, the wife of Andrew Swearingen, and the certificate of the execution thereof, endorsed, are ordered to be certified.

In testimony whereof, and in testimony that Daniel Morgan and Jacob Bedinger, gentlemen, before whom the examination of the above named Lydia Morgan, Margara Swearingen, Drusilla Thornburg, and Polly Swearingen, appears to have been taken, and who have subscribed their names thereto, are acting justices of the peace in and for said county, I, George Hite, clerk of the said county court, have hereunto set my hand, and caused the seal of said county to be hereunto affixed, the day and year above written.

[L. S.] GEORGE HITE.

VIRGINIA, *Jefferson county*, set.

I, John Kearsley, presiding magistrate of the court of Jefferson county, State of Virginia, aforesaid, do hereby certify that the above attestation is in due form of law. Given under my hand this 21st day of September, 1802.

JOHN KEARSLEY.

This indenture, made this 28th day of September, 1808, between Thomas Swearingen, of the county of Berkley, and State of Virginia, and Drusilla Thornburg, of the county of Jefferson, and State aforesaid, two of the heirs and devisees of Thomas Swearingen, deceased, late of the county of Berkley, and State aforesaid, of the one part, and William Black, of the county of Bourbon, and State of Kentucky, of the other part, witnesseth that the said Thomas Swearingen and Drusilla Thornburgh, for and in consideration of the sum of one dollar in hand paid to the said Thomas Swearingen and Drusilla Thornburg, by the said William Black, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, they, the said Thomas Swearingen and Drusilla Thornburg, have granted and released, and by these presents do grant and release, unto the said William Black, all the right, title, claim, and interest, whatsoever, which they, the said Thomas Swearingen and Drusilla Thornburg, have in and to a certain tract or parcel of land, situate, lying and being in the county of Bourbon, and State of Kentucky, containing two hundred and eighty-one acres, being the same tract or parcel of land which was conveyed by Andrew Swearingen, (also one of the heirs and devisees of the said Thomas Swearingen, deceased,) and Polly his wife, to the said William Black, by deed of bargain and sale, bearing date the 1st day of August, 1808, as by reference to said deed, duly recorded in Bourbon county, may more fully appear. To have and to hold said released premises unto the said William Black, and his heirs and assigns, to the only proper use and behoof of the said William Black, his heirs and assigns for ever, free and clear from the claim and demand of the said Thomas Swearingen and Drusilla Thornsburg, their heirs and assigns; and it is expressly understood, that the said Thomas Swearingen and Drusilla Thornburgh only hereby release their right, and are not to be responsible in any way for the title of said land.

In testimony whereof, the said Thomas Swearingen and Drusilla Thornburg have hereunto set their hands and seals, the day and year aforesaid.

THOMAS SWEARINGEN, [SEAL.]
DRUSILLA THORNBURGH, [SEAL.]

Signed, sealed, and delivered in presence of
VAN RUTHERFORD,
A. DAVENPORT,
JAMES GLENN,
BRAXTON DAVENPORT.

STATE OF VIRGINIA, *Jefferson county*, sct.

Thomas Swearingen and Drusilla Thornburg, whose names are signed to the annexed deed, this day personally appeared before us, the subscribers, justices of the peace in and for the county of Jefferson aforesaid, and State of Virginia aforesaid, and acknowledged that they did execute the said deed for the purposes therein mentioned, and that the same is their act and deed. Given under our hands and seals, this 28th day of September, 1808.

A. DAVENPORT, [SEAL.]
VAN RUTHERFORD, [SEAL.]

VIRGINIA, *Jefferson county*, to wit:

I, George Hite, clerk of the county court of Jefferson aforesaid, do hereby certify, that Abraham Davenport and Van Rutherford, gentlemen, before whom the foregoing acknowledgment was made, and who have subscribed their names thereto, were, at the time of doing the same, and still are, two of the Commonwealth's justices of the peace in and for the aforesaid county, duly commissioned and sworn, and that due faith and credit is and ought to be given to all their acts as such, whether in courts of equity or thereout.

In testimony whereof, I have hereunto set my hand, and affixed the seal of my office, the 30th day of September, 1808, and in the 33d year of the Commonwealth.

[L. S.] GEORGE HITE.

VIRGINIA, *Jefferson county*, to wit:

I, John Kearsley, presiding justice in and for the aforesaid county, do hereby certify, that George Hite hath been duly elected and qualified as clerk of the court of the said county, and that the foregoing attestation is in due form.

Given under my hand and seal, this 30th day of September, 1808.

JOHN KEARSLEY, [SEAL.]

BOURBON COUNTY, *Clerk's Office, April 22d*, 1809.

This deed of bargain and sale from Thomas Swearingen and Drusilla Thornburg to William Black, together with the certificates thereto annexed, was produced in my office, and ordered to be recorded.

Attest, WILLIAM GARRARD, Jr., *C. B. C.*

This indenture, made this 28th day of September, 1808, between Thomas Swearingen, of the county of Berkley, and State of Virginia, and Drusilla Thornsburg, of the county of Jefferson, and State aforesaid, two of the heirs and devisees of Thomas Swearingen, deceased, late of the county of Berkley,

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and State aforesaid, of the one part, and Samuel Black, of the county of Bourbon, and State of Kentucky, of the other part, witnesseth, that the said Thomas Swearingen and Drusilla Thornburg, for and in consideration of the sum of one dollar, in hand paid to the said Thomas Swearingen and Thornburg, by the said Samuel Black, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, they, the said Thomas Swearingen and Drusilla Thornburg, have granted and released, and by these presents do grant and release, unto the said Samuel Black, all the right, title, claim, and interest, which they, the said Thomas Swearingen and Drusilla Thornburg, have in and to a certain tract or parcel of land, situate, lying, and being in Bourbon county, and State of Kentucky, containing two hundred and eighty-one acres, being the same tract or parcel of land which was by Andrew Swearingen, (also one of the heirs and devisees of Thomas Swearingen, deceased,) and Polly his wife, to the said Samuel Black, by deed of bargain and sale, bearing date the first day of August, 1808, as by a reference to said deed, duly recorded in Bourbon county, may more fully appear. To have and to hold the said released premises unto the said Samuel Black, his heirs and assigns, to the only proper use and behoof of the said Samuel Black, his heirs and assigns for ever, free and clear from the claim or demand of the said Thomas Swearingen and Drusilla Thornburg, their heirs and assigns; and it is expressly understood, that the said Thomas Swearingen and Drusilla Thornburg only hereby release their right, and are not to be responsible in any way for the title of said land. In testimony whereof, the said Thomas Swearingen and Drusilla Thornburg have hereunto set their hands and seals, the day and year aforesaid.

THOMAS SWEARINGEN, [SEAL.]
DRUSILLA THORNBURG, [SEAL.]

Signed, sealed, and delivered, in the presence of
VAN RUTHERFORD,
A. DAVENPORT,
JAMES GLENN,
BRAXTON DAVENPORT.

STATE OF VIRGINIA, *Jefferson County*, set.

Thomas Swearingen and Drusilla Thornburg, whose names are signed to the annexed deed, this day personally appeared before us, the subscribers, justices of the peace in and for the county of Jefferson aforesaid, and State of Virginia aforesaid, and acknowledged that they did execute the said deed for the purposes therein mentioned, and that the same is their act and deed. Given under our hands and seals, this 28th day of September, 1808.

A. DAVENPORT, [SEAL.]
VAN RUTHERFORD, [SEAL.]

VIRGINIA, *Jefferson County*, to wit:

I, George Hite, clerk of the county court of Jefferson aforesaid, do hereby certify, that Abraham Davenport and Van Rutherford, gentlemen, before whom the foregoing acknowledgment hath been made, and who hath subscribed their names thereto, were, at the time of doing the same, and still are two of the Commonwealth's justices of the peace in and for the aforesaid county, duly commissioned and sworn; and that due faith and credit is and ought to be given to all their acts as such, whether in courts of equity or

thereout. In testimony whereof, I have hereunto set my hand and affixed the seal of my office, this 30th day of September, 1808, and in the 33d year of the Commonwealth.

[L. S.] GEO. HITE.

VIRGINIA, *Jefferson County*, to wit:

I, John Kearsley, presiding justice in and for the aforesaid county, do hereby certify, that George Hite hath been duly elected and qualified as clerk of the court for the said county, and that the foregoing attestation is in due form.

Given under my hand and seal, this 30th day of September, 1808.

JOHN KEARSLEY.

BOURBON COUNTY, *Clerk's Office, April* 22, 1809.

This deed of bargain and sale from Thomas Swearingen and Drusilla Thornburg to Samuel Black, together with the certificates thereon endorsed, was produced in my office and ordered to be recorded.

Attest, WILLIAM GARRARD, Jr. *C. B. C.*

This indenture, made the seventeenth day of March, in the year of our Lord one thousand eight hundred and one, between John Martin, of the county of Lincoln, of the one part, and George Johnson, of the county of Scott, and Edmund Thomas, of the county of Franklin, all of the State of Kentucky, of the other part, witnesseth, that the said John Martin, for and in consideration of the sum of one hundred pounds, to him in hand paid, the receipt whereof he hereby acknowledged, hath granted, bargained, sold, aliened and confirmed, and by these presents doth grant, bargain, sell, alien and confirm, to the said George Johnson and Edmund Thomas, their heirs and assigns, the following tracts or parcels of land, to wit:

I—333⅓ acres on T. W. No. 3,997, lying in the county of Fayette, on Stoner's fork, surveyed 27th of January, 1785, patented 19th May, 1786.

II—1,000 acres on T. W. No. 7,363, lying in the county of Fayette, on Mill creek, surveyed 8th April, 1784, patented 12th May, 1786.

III—1,000, acres p. W. No. 519. Fayette, assignee of David Wilcox, surveyed 28th January, 1783, patented 7th February, 1785.

IV—802 acres, T. W. No. 7,402, Fayette, on Stoner, adjoining his preemption, assignee William Hoy, surveyed 25th of March, 1784, patented 20th of September, 1786.

V—500 acres, T. W. No. 4,131, Lincoln, Station Camp creek, surveyed 18th March, 1784, patented 8th June, 1786.

VI—400 acres his own settlement, Fayette, Stoner's fork, surveyed 25th January, 1775, patented 8th December, 1787.

VII—1,000 acres, his pre-emption warrant, No. 520, Fayette, Stoner's fork of Licking, surveyed 25th January, 1785, patented 6th December, 1787.

VIII—583 acres, T. W. No. 276, Fayette, on the north side of the north fork of Licking, surveyed 12th May, 1784, patented 11th May, 1786.

IX—400 acres, T. W. No. 14,023, Fayette, Huston's fork Licking, surveyed 23d March, 1786, patented 29th October. 1788.

X—528 acres, T. W. No. entered 15th May, 1780, Bourbon, south side south fork of Licking, surveyed 23d October, 1797, patented 7th March, 1800.

XI—842 acres, T. W. No. 7,402, Bourbon, waters south fork of Licking. surveyed 27th October, 1797, patented 7th March, 1800.

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XII—2,000 acres, T. W. No. 7,363, Bourbon county, joining Wm. McCleland's settlement and pre-emption, surveyed 26th August, 1798, patented 30th June, 1799. To have and to hold the said tracts or parcels of land, with all and singular its appurtenances, to the said George Johnson and Edmund Thomas, their heirs and assigns for ever, to them and their only proper use and behoof; and the said John Martin, for himself and his heirs, the said tracts or parcels of land, with its appurtenances, to the said George Johnson and Edmund Thomas, and their heirs and assigns, against the claim of every person whatsoever, claiming by, from, or under him, the said John Martin, and not from any other person, do and will warrant and for ever defend. In witness whereof, the said John Martin hath hereto set his hand and seal the date above written. JOHN MARTIN, [SEAL.]

Signed, sealed, and delivered in the presence of
JOHN H. CRAIG,
RICHARD FOX,
WILLIAM BLEDSOE,
CHARLES MASON.

STATE OF KENTUCKY, set.

I, Thomas Todd, clerk of the court of appeals for the State aforesaid, being duly authorized by law to receive, admit, and record deeds and other writings in my office, do hereby certify, that the foregoing deed was produced to me in my office in Frankfort, on the 16th day of December, one thousand eight hundred and one, and proven by the oath of Richard Fox, on the 17th day ensuing was further proven by the oath of William Bledsoe, and on the eighteenth day ensuing was further and fully proven by the oath of John H. Craig, to be the act and deed of John Martin, the grantor therein named, and that the same is truly recorded. In testimony whereof, I have hereunto set my hand and affixed my seal of office, the day and year aforesaid.

[L. S.] THOMAS TODD.
A copy. Att. ACHILLES SNEED, *C. C. A.*

This indenture, made this first day of August, in the year of our Lord one thousand eight hundred and eight, between Andrew Swearingen, and Polly Swearingen his wife, of the county of Montgomery, and Commonwealth of Kentucky, of the one part, and Samuel Black, heir at law of John Black, deceased, of the county of Bourbon, and Commonwealth aforesaid, of the other part, witnesseth, that the said Andrew Swearingen, and Polly his wife, for and in consideration of the sum of one hundred and thirteen pounds ten shillings, current money, to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, and confirm unto the said Samuel Black, heir at law to John Black, deceased, his heirs or assigns, all that tract or parcel of land, situate, lying, and being in the county of Bourbon, on the waters of Flat Lick creek, containing two hundred and eighty-one acres, and bounded as follows, to wit: beginning at a large ash tree, standing in or near the marked sugar tree and honey locust, on a ridge, corner to the patent, and running with the line of the same north 42° 45' west 217 poles to a sugar tree sapling, near two box elders, buck eye, and hickory, on the patent line; north 50° east 214 poles to two black walnuts, bettywood, and ash, near William Wright's field fence; thence south 42°

east 217 poles to a cherry tree, buckeye, and box elder; thence south 49° west to the beginning; together with all and singular the premises thereunto belonging, or in anywise appertaining. To have and to hold the land hereby conveyed, with the appurtenances, unto the said Samuel Black, his heirs and assigns for ever; and the said Andrew Swearingen, and Polly his wife, for themselves and their heirs, executors, and administrators, the aforesaid tract of land and premises unto the said Samuel Black, heir at law to John Black, deceased, his heirs or assigns, against the claim or claims of all and every person or persons whatsoever, and the said Andrew Swearingen, and Polly his wife, do and will warrant and for ever defend by these presents.

In witness whereof, the said Andrew Swearingen; and Polly his wife, have hereunto set their hand and seal, the day and date first above written.

ANDREW SWEARINGEN, [L. S.]
POLLY SWEARINGEN, [L. S.]

Acknowledged in presence of

MONTGOMERY COUNTY, sc.

This day came the within named Polly Swearingen before us, the subscribers, two of the Commonwealth's justices for said county, and she being examined separate and apart from her husband, acknowledged that she relinquished her right of dower of the within tract or parcel of land freely and willingly, and without fear or threats, or gaining the displeasure of her husband. Given under our hands this 17th day of August, 1808.

JEREMIAH DAVIS, [L. S.]
JOSEPH SIMPSON, [L. S.]

BOURBON COUNTY, *August* 8, 1808.

This deed of bargain and sale from Andrew Swearingen, and Polly his wife, to Samuel Black, heir at law to John Black, deceased, was this day acknowledged before me by the said Andrew; and, together with the certificate of Jeremiah Davis and Joseph Simpson, thereon endorsed, was admitted to record.

Attest, WILLIAM GARRARD, *C. B. C.*

This indenture, made this 1st day of August, in the year of our Lord one thousand eight hundred and eight, between Andrew Swearingen, and Polly his wife, of the county of Montgomery, and Commonwealth of Kentucky, of the one part, and William Black, heir at law to John Black, deceased, of the county of Bourbon, and Commonwealth aforesaid, of the other part, witnesseth, that the said Andrew Swearingen, and Polly his wife, for and in consideration of the sum of one hundred and forty pounds ten shillings, current money of Kentucky, to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, and confirm, unto the said William Black, his heirs and assigns, all that tract or parcel of land situate, lying, and being in the county of Bourbon, on the waters of Flat Lick creek, containing two hundred and eighty-one acres, and bounded as follows, to wit: beginning at a sugar tree sapling, box elder, buckeye, and hickory, on the patent line, running north 42° 45' west 217 poles to two bettywood saplings, near a marked honey locust, corner to the patent; thence with said line, north 49° 30' east 218 poles to three hickories on said patent line; thence south 40° east 213 poles to two black walnuts, bettywood, and ash, near William

97.

Wright's field fence; thence south 49° west 214 poles to the beginning; together with all and singular the premises thereunto belonging or in anywise appertaining. To have and to hold the land hereby conveyed, with the appurtenances, unto the said William Black, heir at law to John Black, deceased, his heirs and assigns for ever; and the said Andrew Swearingen, and Polly his wife, for themselves, their heirs, executors, and administrators, the aforesaid tract of land and premises unto the said William Black, his heirs or assigns, against the claim or claims of all and every person or persons whatsoever, and the said Andrew Swearingen, and Polly his wife, do and will warrant and for ever defend by these presents. In witness whereof, the said Andrew and Polly have hereunto set their hand seal the day and date first above written.

ANDREW SWEARINGEN, [L. S.]
POLLY SWEARINGEN, [L. S.]

Acknowledged in presence of

MONTGOMERY COUNTY, sc.

This day came the within named Polly Swearingen before us, the subscribers, two of the Commonwealth's justices for said county, and she being examined separate and apart from her husband, acknowledged that she relinquished her right of dower of the within tract or parcel of land, freely and willingly, and without fear or threats, or gaining the displeasure of her husband. Given under our hands this 17th day of August, 1808.

JEREMIAH DAVIS,
JOSEPH SIMPSON.

BOURBON COUNTY, *August* 8, 1808.

This deed of bargain and sale from Andrew Swearingen, and Polly his wife, to William Black, together with the certificate annexed, was produced into my office, acknowledged, and ordered to be recorded.

Attest, WILLIAM GARRARD, Jr., *C. B. C.*

I, John McIntire, of the county of Bourbon, and State of Kentucky, do obligate, bind, and oblige myself, my heirs, &c., to transfer, convey, and make over, by a special deed of conveyance, unto Alexander Write, his heirs, &c., fifty acres of land, joining the land he lives on, and Mr. Dillon's on the northwest side, at the rate of thirty pound, and do acknowledge to have received two cows and one calf, at six pound ten shillings, and three pound in a note, and six pound in cash, and a note of hand for the balance: now, if, in case the land should be lost or taken away by a prior claim, in that case the said John McIntire, his heirs, &c., is to pay said Wright, his heirs, &c., his money and property back again, with law interest from the date hereof, or else the above obligation to be void; otherwise, to stand, remain, and be in full force and virtue. On this 1st August, 1790.

JOHN McINTIRE

In presence of
MICHAEL LONG.

Know all men by these presents, that I, John McIntire, of the county of Bourbon, and State of Kentucky, am held and firmly bound unto Samuel Dillon, of the same county, and State aforesaid, in the just and full sum of one hundred pound, Virginia currency, to be paid to the said Dillon, his heirs, executors, administrators, or assigns; to which payment to be made,

I bind myself, heirs, executors, administrators, firmly by these presents; and sealed with seal, this eighteenth day of July, in the year one thousand seven hundred and ninety-three.

The condition of the above obligation is such, that, whereas the above mentioned John McIntire, his heirs, &c., hath bargained and sold unto the above named Samuel Dillon all that tract or parcel of land, supposed to contain seventy acres, lying in the county of Bourbon, on the head of Flat run, being part 1,000 acres patented in the name of Nicholas McIntire, beginning at the northeast corner, in the line of the patent, corner to Alexander Wright's 100 acres of land out of the same tract, and running north 45° west with the line of said Wright's the whole length; then from each end of said line at right angles to the line of the patent; only, in case any part or the whole of the above land should be lost or taken away by a prior claim, then, in that case, the said McIntire, his heirs, &c., is to pay back again unto the said Dillon, his heirs, &c., at the rate of two dollars per acre for every such acre of land that may be lost, in the same kind payment received of said Dillon, with lawful interest from the time of receiving of the same, and make a good and sufficient title for the above land, whenever found to be safe, unto the said Dillon, his heirs, executors, administrators, or then the above obligation to be void, or else remain in full force and virtue in law.

JOHN McINTIRE, [SEAL.]

Signed, sealed, and delivered, in presence of
ALEXANDER WRIGHT.

Know all men by these presents, that I, George Johnson, of the county of Greenup, and State of Kentucky, am held and firmly bound unto Morris Morris, of the county of Bourbon, and State aforesaid, in the penal sum of two thousand dollars, to which payment well and truly to be made to the said Morris, his heirs or assigns, I bind myself, my heirs, executors, &c., jointly and severally, firmly by these presents. Sealed with my seal, and dated this 7th day of October, 1808.

The condition of the above obligation is such, that, whereas the above bound George Johnson has sold all his right, interest and claim to a certain parcel of land to the said Morris, whereon the said Morris now lives, containing, by survey, three hundred acres, and there being adverse claims on the said land, now it is understood and agreed between the contracting parties, that, in case the said land should be taken from the said Morris by a prior or better claim, after a final determination of the titles, then the said Johnson is, on demand, to pay to the said Morris the sum of eleven hundred and twenty dollars, part in property and part in money, agreeable to the payments made by the said Morris, but without interest; the above bound George Johnson agrees to relinquish any claim that he may be, by law or equity, entitled to, for any improvements made on said land, the said Morris, his heirs or assigns. In witness whereof, I have hereunto set my hand and seal, the date aforewritten.

GEORGE JOHNSON, [L. S.]

Signed, sealed, and delivered in presence of
JOHN R. CAMPBELL,
AARON HIGGINS,
THOMAS MOCKBEE.

38.

Know all men by these presents, that I, John McIntire, of the county of Bourbon, and State of Virginia, am held and firmly bound unto Thomas Bradshaw, of the county of Fayette, and State aforesaid, in the just and full sum of one hundred pound, good and lawful money of said State, to be paid to said Thomas Bradshaw, his heirs, executors, administrators, or assigns; to which payment to be made I bind myself, my heirs, executors, or administrators, jointly, severally, and firmly, by these presents, and sealed with my seal, and dated this second day of August, in the year of one thousand seven hundred and eighty-eight.

The condition of the above obligation is such, that, whereas the above named John McIntire hath bargained and sold unto said Thomas Bradshaw a certain tract of land, containing one hundred acres, in the county of Bourbon, and State aforesaid, on the dividing ridge between Hinkston and Stoner's fork waters, to be laid off on either end or side of five hundred acres of the north end of a thousand acre survey in the name of Nicholas McIntire, clear of Mr. Joseph Williams's line, in good form; now do hereby obligate, bind, and oblige myself, my heirs, executors, and administrators, to make a general warranty to the land above mentioned in twelve months the date hereof, unto Thomas Bradshaw, his heirs, executors, administrators, or assigns, or else the above obligation to be void; otherwise, to stand, remain, and be in full force and virtue in law.

JOHN McINTIRE, [SEAL.]

Signed, sealed, and delivered in the presence of
WILLIAM CRAIG,
WILLIAM BRADSHAW.

Assignment.

I do assign the within bond to Alexander Wright, as witness my hand this 13th day of February, 1790.

THOMAS BRADSHAW.

Teste, JOHN HOGAN,
WILLIAM WRIGHT.

Know all men by these presents, that I, George Johnson, of the county of Bourbon, and State of Kentucky, am held and firmly bound unto Harbin M. Brenham, of the county and State aforesaid, in the full and just sum of two thousand dollars; to which payment, well and truly to be made to the said Harbin M. Brenham, his heirs or assigns, I bind myself, my heirs, jointly and severally, firmly by these presents; sealed with my seal, and dated this 29th day of September, 1806.

The condition of the above obligation is such, that, whereas the said Johnson hath sold to the said Branham a certain tract or parcel of land, lying in Bourbon county, on Cane Ridge, it being the land whereon said Branham now lives, containing, by survey, one hundred and fifty acres, and bounded as follows, to wit: beginning at two sugar trees, corner to Benjamin Harrison's survey of 1,000 acres, and running thence S. 37 poles, to three sugar trees in a line of a survey of 1,687 acres, made for the heirs of Henry Miller, deceased; thence, with said line, E. 168 poles, to a hickory, hackberry, and sugar tree, in Wood's line; thence, with said line, N. 42 poles, to the intersection of said Wood's and McIntire's line; thence, with said McIntire's line, N. 39°, 93 poles, to a stake in a field;

thence, N. 44° W., 54 poles, to a sugar tree and hackberry, standing on the Upper Blue Lick road; thence, with said road, S. 72° W., 215 poles, to a stake in said road; and thence, S. 19° E., 50 poles, to the beginning. Now if the above bound George Johnson shall convey to the said Harbin M. Brenham, his heirs or assigns, the aforesaid tract or parcel of land, by a good and lawful deed, with special warranty, that is, against himself, his heirs, and all and every person or persons claiming under him, the said George Johnson, when required, then in that case the above obligation to be void, otherwise to remain in full force and virtue.

GEORGE JOHNSON.

I do hereby relinquish all right, claim, or title, to the improvements made, or to be made, on said land. Given under my hand, this 29th day of September, 1806.

GEORGE JOHNSON.

Signed, sealed, and delivered, in presence of
HENRY MOORE,
J. PIERSON,
THOMAS MORRIS.

Whereas George Johnson and myself, some time since, obtained a deed from John Martin, of the county of Lincoln, for several tracts of land, lying and being within the different parts of the State of Kentucky, among other tracts comprehended in said deed was one lying in the county of Bourbon, on Cane Ridge, containing 2,000 acres; and whereas the said George and myself do agree that Christopher Greenup should have a certain interest therein; now this instrument of writing witnesseth, that I do hereby release and give up all the interest I have in the aforesaid tract of 2,000 acres to George Johnson, for and in consideration of his, the said George, releasing and giving up to me his interest in another tract of land, agreeable to his bond given this day. In witness whereof, I have hereunto set my hand and affixed my seal, this 1st day of November, 1802.

EDMUND THOMAS, [SEAL.]

Teste, JAMES MEER,
WILLIAM SMITH WALLOR.

A copy. Attest, THOMAS ARNOLD, *C. B. C. C.*

BOURBON CIRCUIT, set.

I, Thomas Arnold, clerk of the Bourbon circuit court, do hereby certify, that this is a true copy of a relinquishment of title from Edmund Thomas to George Johnson, filed in the suit in chancery, George Johnson against John McIntire.

In witness, I have hereunto set my hand, and affixed my seal, this 7th day of November, 1809.

THOMAS ARNOLD, [SEAL.]

Whereas I, George Johnson, on the 29th day of September, in the year 1806, gave a bond to Harbin Brenham, binding me to convey to him the quantity of 150 acres of land in Bourbon county, on Cane Ridge, as by said bond of the above date will appear; and whereas the title is not yet conveyed to said Brenham, and suit is commenced against said land in the circuit court of the United States for the district of Kentucky, by the heirs of Henry Miller, deceased, wherein said Branham is defendant, among

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others; and whereas it is conceived that said claim of the heirs of said Miller is valid, and the suit dangerous; now it is hereby agreed between the parties, that said Branham shall, for and in my behalf, and in my name, and in his own, confess a judgment, or acknowledge a decree, in said suit, for said land, in favor of said heirs of the said Miller; and shall proceed with all practicable despatch, under the advice of counsel learned in the law, to get a valuation of the improvements made thereon by commissioners, under an act of Assembly, entitled an act concerning occupying claimants of land, and to procure a judgment of said court on the report of said commissioners, and to get execution issued thereon, and to seize said land, and purchase it himself. Now if said Branham succeeds in procuring said land from said Millers in that way, or any other reasonable way, to his satisfaction, then the bond which I have given him shall be null and void, and of no obligatory force thereafter on me, either in law or equity; but if said Branham should not succeed in procuring, in the manner above described, but should fail therein by Miller's heirs paying him up the money for the improvements before execution can operate on the land by sale, or by any other moderate and satisfactory means, should fail in procuring Miller's title, then such failure is hereby acknowledged to be a breach of the condition of the aforesaid bond, and non-performance on my part; and this shall be received as evidence thereof in any court of record; in that case, I hereby bind myself to restore to the said Brenham, or his legal representatives, the consideration which I have received for said land, in kine or specifically, without interest, which is hereby declared to be one negro man slave, worth one hundred pounds, and the balance in good saleable geldings, at market price, till the whole shall amount to the sum of seven hundred and fifty dollars; and it is further agreed, that this shall be annexed to and constitute a part of the above described bond. In testimony whereof, the parties have hereunto set their hands and seals, this seventh day of September, in the year one thousand eight hundred and nine.

Note.—The parties to this agreement, before the signing and execution thereof, agree that the negro boy or man slave above mentioned shall and may be discharged by a likely negro boy twelve years old; and that one of that description shall discharge and satisfy the said hundred pounds, in lieu of the boy heretofore paid by said Branham to said Johnson.

GEORGE JOHNSON, [SEAL.]
HARBIN M. BRANHAM, [SEAL.]

Teste, B. MILLS,
THOMAS MORRIS.

Whereas George Johnson, on the 7th day of October, in the year one thousand eight hundred and eight, gave to Morris Morris, of the county of Bourbon, a bond for three hundred acres of land, in Bourbon county, on Cane ridge, as by reference to said bond will clearly appear; and whereas the said Morris Morris has since deceased, and has left Thomas Morris, and Rachel Morris, the wife of Moris Morris, jr., Daniel C. Morris, Polly Morris, John Morris, Rebecca Morris, Nancy Morris, Betsey Morris, Horatio Morris, Preston Morris, Alfort F. Morris, and Bluford Morris, his legal heirs, and the last nine mentioned are under the age of twenty one years, and the said Thomas Morris is the administrator of said estate of the said decedent, and in this particular, and in the suit hereinafter mentioned, acts as special guardian for the said infant heirs, and for himself and the

other heirs of said decedent; and whereas suit has been commenced in the circuit court of the United States for the district of Kentucky, for said land, against the said Morris Morris, in his lifetime, with other defendants, by the heirs of Henry Miller, deceased, and the title of said Miller's heirs is by many supposed to be valid, and the continuation of a suit is thought disadvantageous to the interest of said heirs, now it is agreed between the said parties, the said Thomas Morris in this particular conceiving it the most beneficial contract he can make for said infants, that the said Thomas Morris, for himself and the other heirs of said decedent, and for and in behalf of the said George Johnson, and in his name, shall confess a judgment or decree, and he is hereby empowered to confess a judgment or decree in said suit, in said court, for said 300 acres of land, in favor of the heirs of said Miller, and shall then proceed with all practicable despatch to procure a valuation of the improvements on said land of the heirs of said Morris Morris, deceased, by commissioners under the act of Assembly entitled an act concerning occupying claimants of land, and to procure a judgment on the report of said commissioners, in said court, against the heirs of said Miller, for the value of said improvements, and shall then proceed by execution levied on said land, and the claim of said Miller's heirs, to sell the same, agreeably to law, and purchase said land, under said sale, for himself and the rest of the heirs of the said Morris Morris, deceased. Then if the said Thomas Morris shall succeed in purchasing and procuring said land, by the judgment and execution for said improvements, and thereby should extinguish the title of said Miller's heirs, &c. by any other reasonable means shall procure the claim of said Miller, to his own satisfaction, then said bond above described shall be void and discharged, and the said Johnson for ever released therefrom; but if the said Thomas Morris, after using the exertions above pointed out, or in any other reasonable mode shall fail in procuring the title of said Miller's heirs, it shall be considered a breach of the condition of the bond above alluded to, and a complete non-performance on the part of said Johnson, and this shall be received as a sufficient evidence of a breach in any court of record, and shall establish the right of said heirs of the said Morris Morris, deceased, to recover of said Johnson, or his legal representatives, the consideration formerly paid him for said land by the said Morris Morris, deceased, specifically, as first paid him, which is hereby agreed to be eleven hundred and twenty dollars, three hundred and fifty dollars of which is to be paid in cash, a likely negro man slave of the value of three hundred and sixty-six dollars and sixty-seven cents, and the balance of said sum in good likely saleable geldings; and it is further agreed between the parties that this shall be annexed to and received as a part of the aforesaid bond. In testimony whereof, the parties have hereunto set their hands and seals, this 7th day of September, in the year one thousand eight hundred and nine.

GEORGE JOHNSON, [SEAL.]
THOMAS MORRIS, [SEAL.]

Teste, B. MILLS,
HARBIN M. BRENHAM.

Thomas Swearingen's Will.

The 15th day of October, 1780, I, Thomas Swearingen, of Berkley county, Virginia, being in perfect mind and memory, do make and ordain this to be my last will and testament.

Imprimis. I will and bequeath unto my sons Thomas, Van, and Andrew, all and singular my lands and tenements, lying in the county aforesaid, to be equally divided according to the value, having regard to the conveniences, each one's part to be nearly of equal value as near as possible, to them their heirs and assigns. I will and bequeath unto my son Thomas a negro boy named Dick, and his mare and saddle, and one feather bed, to him and his assigns. I will and bequeath unto my son Van a negro boy named Adam, his mare and saddle, and one feather bed, to him and his assigns. I will and bequeath unto my son Andrew a negro girl named Charity, a mare and saddle, and feather bed, to him and his assigns. I will and bequeath to my daughter Drusilla four hundred acres of land, to be secured for her in the Kentucky country, by virtue of my claims for land there, and a negro girl named Nell, a mare and saddle, and feather bed, to her or her assigns. I will and bequeath unto my daughter Lydia four hundred acres of land, to be secured for her in the Kentucky country, by virtue of my claims for lands there, a negro girl named Sall, a mare and saddle, and a feather bed, to her or her assigns. The land willed to my daughters is to be as good as my claims will secure. It is also my will and desire, that if any one or more of the negroes left to the above named children shall die, or be by any means rendered useless, before they to which they are severally willed to come of age, then there to be another negro or negroes replaced in the room of any one or more that may so happen to die or be rendered useless, out of the increase of my other negroes, or, if no increase, to be taken out of the principal stock, as near of the same value as those for which they are replaced, were they sound, and alive and well. I will and bequeath to my five children within mentioned all my negroes that are not otherwise disposed of in this will, to be equally divided among them, to them, their heirs or assigns. And it is also my will, that after my debts, legacies, and all necessary expenses, are paid, that the remainder be divided amongst my said five children.

I give and bequeath unto my brother Benoni Swearingen all my right to a lot of half acre of ground at the Ferry Landing, which I have a suit against Abraham Shepherd to recover, to him and his assigns. It is also my will, that all the land that a title shall be obtained for, by virtue of my warrants and claims, on the western waters, that is not otherwise disposed of, be divided among my said five children, so that each boy is to have double the quantity that each girl gets, to them, their heirs and assigns. I do appoint my brother-in-law, William Morgan, and my son, Thomas Swearingen, to be my executors of this my last will and testament.

In witness whereof, I have hereunto set my hand and seal, the day and year first above written.

THOMAS SWEARINGEN, [SEAL.]

Signed, sealed, published, and pronounced by the said Thomas Swearingen to be his last will and testament, in the presence of

JOHN HEOM,
his
WILLIAM × CLINKENBEARD,
mark
her
ESTHER × CLINKENBEARD,
mark
JOHN TAYLOR.

other heirs of said decedent; and whereas suit has been commenced in the circuit court of the United States for the district of Kentucky, for said land, against the said Morris Morris, in his lifetime, with other defendants, by the heirs of Henry Miller, deceased, and the title of said Miller's heirs is by many supposed to be valid, and the continuation of a suit is thought disadvantageous to the interest of said heirs, now it is agreed between the said parties, the said Thomas Morris in this particular conceiving it the most beneficial contract he can make for said infants, that the said Thomas Morris, for himself and the other heirs of said decedent, and for and in behalf of the said George Johnson, and in his name, shall confess a judgment or decree, and he is hereby empowered to confess a judgment or decree in said suit, in said court, for said 300 acres of land, in favor of the heirs of said Miller, and shall then proceed with all practicable despatch to procure a valuation of the improvements on said land of the heirs of said Morris Morris, deceased, by commissioners under the act of Assembly entitled an act concerning occupying claimants of land, and to procure a judgment on the report of said commissioners, in said court, against the heirs of said Miller, for the value of said improvements, and shall then proceed by execution levied on said land, and the claim of said Miller's heirs, to sell the same, agreeably to law, and purchase said land, under said sale, for himself and the rest of the heirs of the said Morris Morris, deceased. Then if the said Thomas Morris shall succeed in purchasing and procuring said land, by the judgment and execution for said improvements, and thereby should extinguish the title of said Miller's heirs, &c. by any other reasonable means shall procure the claim of said Miller, to his own satisfaction, then said bond above described shall be void and discharged, and the said Johnson for ever released therefrom; but if the said Thomas Morris, after using the exertions above pointed out, or in any other reasonable mode shall fail in procuring the title of said Miller's heirs, it shall be considered a breach of the condition of the bond above alluded to, and a complete non-performance on the part of said Johnson, and this shall be received as a sufficient evidence of a breach in any court of record, and shall establish the right of said heirs of the said Morris Morris, deceased, to recover of said Johnson, or his legal representatives, the consideration formerly paid him for said land by the said Morris Morris, deceased, specifically, as first paid him, which is hereby agreed to be eleven hundred and twenty dollars, three hundred and fifty dollars of which is to be paid in cash, a likely negro man slave of the value of three hundred and sixty-six dollars and sixty-seven cents, and the balance of said sum in good likely saleable geldings; and it is further agreed between the parties that this shall be annexed to and received as a part of the aforesaid bond. In testimony whereof, the parties have hereunto set their hands and seals, this 7th day of September, in the year one thousand eight hundred and nine.

GEORGE JOHNSON, [SEAL.]
THOMAS MORRIS, [SEAL.]

Teste, B. MILLS,
HARBIN M. BRENHAM.

Thomas Swearingen's Will.

The 15th day of October, 1780, I, Thomas Swearingen, of Berkley county, Virginia, being in perfect mind and memory, do make and ordain this to be my last will and testament.

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Imprimis. I will and bequeath unto my sons Thomas, Van, and Andrew, all and singular my lands and tenements, lying in the county aforesaid, to be equally divided according to the value, having regard to the conveniences, each one's part to be nearly of equal value as near as possible, to them their heirs and assigns. I will and bequeath unto my son Thomas a negro boy named Dick, and his mare and saddle, and one feather bed, to him and his assigns. I will and bequeath unto my son Van a negro boy named Adam, his mare and saddle, and one feather bed, to him and his assigns. I will and bequeath unto my son Andrew a negro girl named Charity, a mare and saddle, and feather bed, to him and his assigns. I will and bequeath to my daughter Drusilla four hundred acres of land, to be secured for her in the Kentucky country, by virtue of my claims for land there, and a negro girl named Nell, a mare and saddle, and feather bed, to her or her assigns. I will and bequeath unto my daughter Lydia four hundred acres of land, to be secured for her in the Kentucky country, by virtue of my claims for lands there, a negro girl named Sall, a mare and saddle, and a feather bed, to her or her assigns. The land willed to my daughters is to be as good as my claims will secure. It is also my will and desire, that if any one or more of the negroes left to the above named children shall die, or be by any means rendered useless, before they to which they are severally willed to come of age, then there to be another negro or negroes replaced in the room of any one or more that may so happen to die or be rendered useless, out of the increase of my other negroes, or, if no increase, to be taken out of the principal stock, as near of the same value as those for which they are replaced, were they sound, and alive and well. I will and bequeath to my five children within mentioned all my negroes that are not otherwise disposed of in this will, to be equally divided among them, to them, their heirs or assigns. And it is also my will, that after my debts, legacies, and all necessary expenses, are paid, that the remainder be divided amongst my said five children.

I give and bequeath unto my brother Benoni Swearingen all my right to a lot of half acre of ground at the Ferry Landing, which I have a suit against Abraham Shepherd to recover, to him and his assigns. It is also my will, that all the land that a title shall be obtained for, by virtue of my warrants and claims, on the western waters, that is not otherwise disposed of, be divided among my said five children, so that each boy is to have double the quantity that each girl gets, to them, their heirs and assigns. I do appoint my brother-in-law, William Morgan, and my son, Thomas Swearingen, to be my executors of this my last will and testament.

In witness whereof, I have hereunto set my hand and seal, the day and year first above written.

THOMAS SWEARINGEN, [SEAL.]

Signed, sealed, published, and pronounced by the said Thomas Swearingen to be his last will and testament, in the presence of

JOHN HEOM,
his
WILLIAM × CLINKENBEARD,
mark
her
ESTHER × CLINKENBEARD,
mark
JOHN TAYLOR.

At a court held for Berkley county, the 21st day of February, 1786, this last will and testament of Thomas Swearingen, deceased, was presented in court by Thomas Swearingen, one of the executors therein named, who made oath thereto according to law; and the same being proved by the oath of John Taylor, a witness thereto, and ordered to be recorded; and, on the motion of the said executor, who entered into bond with John Taylor and Daniel Taylor, his securities, in the penalty of one thousand pounds, conditioned for his true and faithful administration of the said estate, certificate is granted him for obtaining a probate thereof, in due form of law.

Teste, MO. HUNTER, *C. B. C.*

In testimony that the foregoing is a true transcript from the records of the county court of Berkley, I, David Hunter, clerk of said court, have hereunto set my hand, and affixed the seal of said county, this 7th day of March, 1810, and in the 34th year of this Commonwealth.

D. HUNTER.

VIRGINIA, BERKLEY COUNTY, sc.

I, Robert Stephen, presiding justice of the peace in and for said county court, do hereby certify, that the foregoing attestation of David Hunter, clerk of said county, is in due form.

Given under my hand and seal, this 7th day of March, 1810.

ROBERT STEPHENS, *P. J.*, [SEAL.]

A copy. Teste, JOHN H. HANNA, *C. C. C. K. D.*

BOURBON COUNTY, *February 14th and 15th*, 1811.

Pursuant to an order of the honorable United States circuit court for the Kentucky district, in a suit in chancery, wherein the heirs of Henry Miller, deceased, are complainants, against Laban Shipp and others, defendants, amended the survey herein formerly made, and returned as follows, to wit:

Explanation to the former survey.

H. Harrod's Lick, as shown to me by Joshua Stamper, William Clinkenbeard, and Moses Thomas, the 29th of March, 1810.

A. A point two miles north of said lick.

1. Chapman Austin's 4,000 acres, as surveyed.
2. Do. as directed to be surveyed by the complainant.
3. Israel Christian's 200 acres, do.
4. Henry Miller's 1,687 acres, as surveyed.
5. John McIntire's 500 do.
6. Nicholas McIntire's 1,000 do.
7. Benjamin Harris's 1,000 do.
8. Thomas Swearingen's 1,000 do. M. W.
9. Thomas Swearingen's 1,000 do. T. W.
10. John Martin's 2,000 do. contains within its boundaries 8,930 acres.
11. Archibald McKinney's settlement and pre-emption, as surveyed.
12. George Hairston, assignee of James Parberry, who was assignee of Menoah Singleton's pre-emption of 1,000 acres, contains 1,273½ acres.
13. Prettyman Merry's 1,890 acres, part of an entry of 3,000.
14. Cave Johnson's 800 acres, as surveyed.
15. John Taylor and Reuben Proctor, assignee, 300 acres, ditto.

41.

16. Reuben Proctor, assignee of Abraham Salley, 1,000 acres, ditto.
17. James Howard, nd Charles Morgan, assignee, 900 do.
18. Log pond.
19. The dividing ridge between Stoner and Hinkston.

The work all executed by direction of the complainants, except Austin's 4,000 acres, as surveyed, and the dividing ridge, which was laid down by the direction of the defendants.

Explanation to the amendment.

D. Thomas Swearingen's spring and improvement, as shown to me by John McIntire and Isaac Clinkinbeard, where formerly stood a tree, marked with the letters A, B, C, and T, S, as referred to in their depositions.

E△ Michael Stoner's spring and improvement, as shown to me by Thomas Kennedy, and referred to in his deposition: from said improvement to Swearingen's spring and improvement at D, is 4½ miles and 10 poles, on a straight line, bearing north 33° 20' 20". Part of McMillion's trace, or the buffalo road, leading from the head of Green creek to the Lower Blue licks; said trace was shown to me from C to C, and where it crosses the dividing ridge between Hinkston and Stoner, at the letter B, by Isaac Clinkinbeard and Thomas Kennedy, as referred to in their depositions: from Harrod's lick to the letter B, where said trace crosses the dividing ridge, between Hinkston and Stoner, is 2¾ miles and 70 poles, on a straight line, bearing north 23½° west.

ZACHARIAH EASTIN, *S. B. C.*

*Report to the second plat.**

Samuel Miller, &c., complainants, against Laban Shipp, &c., defendants. In Chancery.

Explanation to the plat.

A B C D. Heirs of Henry Miller, deceased, 1,687 acres, as surveyed.
L G M N O. John McIntire's 500 acres.
F G H I K. Nicholas McIntire's 1,000 acres.
P N M H ¶ R S. Benja. Harris's 1,000 acres.
F T U Z. Thomas Swearingen's 1,000 acres, M. W., as surveyed.
F V T W. Thomas Swearingen's 1,000 acres, T. W., as surveyed.
a b c d e f g h i k l m n x y. John Martin's 2,000 acres, as surveyed.
1 2 3 4. Archibald McKinney's pre-emption of 1,000 acres, as surveyed.
5 6 7 8. James Parberry, assignee of Menoah Singleton's pre-emption of 1,000 acres, as surveyed.
9 10 11 12 13 14 15 16 9. Prettyman Merry's 1,890 acres, as surveyed.
11 12 5 17 18 19. Cave Johnson's 800 acres, as surveyed.
20 21 22 23. John Taylor, and Reuben Proctor, assignee, 3,000 acres, as surveyed.
20 24 25 23. Reuben Proctor, assignee, Abraham Salley, 1,000 acres, as surveyed.
24 25 26 27. James Howard and Charles Morgan's 900 acres, as surveyed.
G 28 29 K G. John McIntire's 500 acres, being one equal moiety of Nicholas McIntire's 1,000 acres, as conveyed to him by Isaac McIntire and wife, by deed dated the 4th day of August, 1808.
H I 29 28. Represents the remaining moiety of said 1,000 acres, each moiety containing acres.

* See original record for plats.

30 31 32 33. William Wright's 200 acres, part of Thomas Swearingen's 1,000 acres on M. W.

Z 34 35 30. William Black's 281 acres, part of said Swearingen's 1,000 acres, by deed dated 1st day of August, 1808.

F 34 35 36. Samuel Black's 281 acres, part of Swearingen's 1,000 acres, M. W., as held by deed dated the 1st day of August, 1808.

37 20 24 38 39 F 37. Victor Larimer's 220 acres, part of Reuben Proctor's 1,000 acres, and also part of Parmenus Briscoe's 1,000 acres, by deed dated the 17th day of June, 1799.

G 57 43 K. represents the interference of Nicholas McIntire's 1,000 acres with Miller's claim, containing 576¾ acres.

28 29 K. G. John McIntire's moiety of Nicholas McIntire's 1,000 acres, containing 586¼ acres.

G. 28. 44. 43. K. G. represents the interference of John McIntire's moiety with Miller's claim, containing 478 a. 3 r. 20 p.

57. 28. 44. represents the interference of the remaining moiety with said Miller's claim, containing 97 a. 3 r. 20 p.

Note.—The division line 28, 29, cutting Nicholas McIntire's 1,000 acres into two equal parts, was run on the ground from information received that John McIntire had appropriated the northeast end of the claim. The moiety conveyed by Isaac McIntire and wife to John McIntire, being an undivided one, it was found impracticable to comply with the decree without first making the division.

G. M. N. 56. 55. 53. 58. represents the interference of John McIntire's 500 acres with Miller's claim, containing 423 acres.

N. M. 57. B. 56. N. ditto Benjamin Harris's 1,000 acres ditto, containing 50 acres.

F. 50. D°°, by the points C Z, ditto Thomas Swearingen's 1,000 acres, M. W. ditto, containing 516¼ acres.

F. 50. 58. ditto Thomas Swearingen's 1,000 acres, T. W., containing 73¼ acres and 16 poles.

54. B. C. D. 52. ditto John Martin's 2,000 acres, ditto, containing 1,671½ acres.

3. 57. B. 59. ditto Archibald McKenney's pre-emption of 1,000 acres, containing 3¾ acres and 19 poles.

5. 60. 61. ditto James Parberry, assignee of Menoah Singleton's pre-emption of 1,000 acres, contains 5½ acres and 30 poles.

11. 45. C. 46. ditto Prettyman Merry's 1,890 acres, containing 135½ acres and 29 poles.

46. D. 51. 17. 5. 60. 45. 11. 46. ditto Cave Johnson's 800 acres, containing 826 acres.

20. 42. C. 41. in black and red lines, is the interference of John Taylor and Reuben Proctor's 3,000 acres with Miller's claim, containing 163¾ acres.

20. 41. D. 52. 24. in black and red lines, is the interference of Reuben Proctor's 1,000 acres with said Miller's claim, containing 499¾ acres.

24. 52. 58. ditto James Howard and Charles Morgan's 900 acres, ditto, containing 20½ acres.

47. D. 48. 33. represents the interference of William Wright's 200 acres, part of Thomas Swearingen's 1,000 on M. W., with Miller's claim, containing 58 acres.

°° near the corner C. Z. and 47. 35. 34. ditto of William Black's 281 acres with said Miller's claim, containing 189 acres.

F. 34. 35. 49. 50. F. ditto of Samuel Black's 281 acres, ditto, containing 269¼ acres.

37. 20. 24. 52. 50. F. 37. ditto of Victor Larimer's 220, ditto, containing 101 acres.

40. log pond.

No. 1. BOURBON COUNTY, *October* 17, 18, 19, 20, *and* 21, *inclusive*, 1815.

Surveyed, pursuant to a decree of the honorable United States' circuit court for the district of Kentucky, in a suit in chancery, wherein Samuel Miller, &c., are complainants, against Laban Shipp, &c., defendants, the interference of John McIntire's 500 acres with a survey of 1,687 acres made for the heirs of Henry Miller, deceased, and situate and lying in the county aforesaid, and bounded as follows, to wit: beginning at G, two hickories between two marked sugar trees in Thomas Swearingen's line, and corner to Nicholas McIntire; thence, with his line, S. 43½ W., 398 poles, to M, an oak and ash stump, corner to Benjamin Harris's 1,000 acres; thence, with his line, N. 89° E., 195 poles, to N, two sugar trees, corner to said Benjamin Harris; thence, with another of his lines, S., 1½° E., 39½ poles, to two sugar trees (at 56) in Henry Miller's south boundary line; thence, with said line, E. 138 poles, to (55) a forked box elder in said McIntire's line; thence, with said line, N. 37½ E., 58 poles, to (53) a small sugar tree and black ash in Miller's east boundary line; thence, with said line, N. 160½ poles, to a stake in Thomas Swearingen's line (at 58;) and thence, with said line, N. 41½° W., 149½ poles, to the beginning, containing 423 acres.

No. 2. Also the interference of Nicholas McIntire's 1,000 acres with said Miller's 1,687 acres, and bounded as follows, to wit: beginning at (G) two hickories, between two marked sugar trees, in Thomas Swearingen's line, and 22 poles S. 41½ E. from said Swearingen's beginning corner; thence, S. 43½ W., 437½ poles, to (57) a box elder at the intersection of said line with Miller's west boundary line; thence, with said line, N. 503 poles, cross Flat run, to (43) four white hickories and white oak in Nicholas McIntire's old line; thence, with said line, N. 43½ E., 96 poles, to (K) an ash and two ash and a sugar tree stumps in Thomas Swearingen's line of his 1,000 acres, military survey; and thence, with a line thereof, S. 41½ E., 346 poles, to the beginning, containing 576¾ acres.

No. 3. Also John McIntire's moiety of Nicholas McIntire's 1,000 acres, and bounded as follows, to wit: beginning at (28) three large iron woods from one root, in Nicholas McIntire's old line; thence, N. 46½ W. 346 poles, to a stake (at 29) in another line of N. McIntire's; thence, with said old line, N. 43½ E., 276 poles, to (K) an ash and two ash and a sugar tree stumps, N. McIntire's old corner, in Thomas Swearingen's line of his 1,000 acre military survey; thence, with said line, S. 41½ E., 346 poles, to (G) two hickories between two marked sugar trees in a line of Thomas Swearingen's 1,000, T W.; and thence, S. 43½ W., 258 poles, to the beginning, containing 586¾ acres.

No. 4. Also the other or remaining moiety of Nicholas McIntire's 1,000 acres, and bounded as follows, to wit: beginning at (H) an ash and fallen walnut, south corner to said 1,000; thence, with a line thereof, N. 43½ E., 262 poles, to (28) three large iron woods from one root, corner to

the above survey; thence, with a line thereof, N. 46½ W., 346 poles, to (29) a stake in N. McIntire's old line, and corner to the above survey; thence, with said old line, S. 43½ W., 262 poles, to three sugar trees at (I) corner to said 1,000 acres; and thence, with the old line of said McIntire's 1,000 acres, S. 46½ E., 346 poles, to the beginning, containing 586½ acres.

No. 5. Also the interference of Benjamin Harris's 1,000 acres with Miller's 1,687 acres, and bounded as follows, to wit: beginning at (N) two sugar trees, northeast corner to said Harris's 1,000 acres; thence, with his line, S. 89 W., 195 poles, to (M) an oak and ash stump, another of Harris's corners, in Nicholas McIntire's line; thence, with said line, S. 43½ W., 40½ poles, to (57) a box elder in Miller's west boundary line; thence, with said line, south 7 and $\frac{8}{10}$ poles, to (B) a box elder and buckeye stump, Miller's southwest corner, in the ironwork road; thence, with Miller's line, E. 226 poles, to (56) two sugar trees in Harris's east boundary line; and thence, with said line, N. 1½° W., 39½ poles, to the beginning, containing 50 acres.

No. 6. Also the interference of Thomas Swearingen's 1,000 acres Treasury warrant, and bounded as follows, to wit: beginning at (F) a large black ash by three marked sugar trees and a honey locust, on the dividing ridge between Hinkston and Stoner, Swearingen's beginning corner; thence, with his line, S. 41½ E., 149½ poles, to (58) a stake in Miller's line; thence, with said line, N. 227 poles, to (50) a stake, half a pole, N. 48½ E., from a pointed box elder in the dividing line between said Swearingen's military survey and his Treasury warrant; and thence, with said line, S. 48½ W., 155 poles, to the beginning, containing 72¾ acres and 16 poles.

No. 7. Also the interference of John Martin's 2,000 acres with said Miller's 1,687, and bounded as follows, to wit: beginning at (C) a large black walnut, white hickory, and a blue ash, corner to Wood's survey, in H. Miller's line; thence, with Wood's and Martin's line, S. 2½ W., 274 poles, to (54) a sugar tree in Miller's south boundary line, and 9 poles W. from his southeast corner; thence west, with said Miller's line, 391 poles, to a box elder and buckeye stump, in the ironworks road, at (B Miller's southwest corner; thence, with another of his lines, N. 674-$\frac{8}{10}$ poles, to (C) a dead mulberry, fallen black locust, and hickory, Miller's northwest corner; thence, with his line, E. 400 poles, to (D) a stake in Wright's field; and thence, with another of said Miller's lines, S. 400-$\frac{8}{10}$ poles, to the beginning, containing 1,671½ acres.

No. 8. Also the interference of Archibald McKinney's pre-emption of 1,000 acres with said Miller's 1,687 acres, and bounded as follows, to wit: beginning at (3) a large dead oak, northeast corner to said McKinney's pre-emption; thence, with his line, S. 89° W., 76 poles, to (57) a box elder, Miller's west boundary line; thence, with said line, S. 7-$\frac{8}{10}$ poles, to (B) a box elder and buckeye stump in the ironworks road, southwest corner to Miller's survey; thence, with his line, E. 76 poles, to a stake (at 59) in McKinney's east boundary line; and thence, with said line, N. 1½ W., 8½ poles, to the beginning, containing 3¾ acres and 19 poles.

No. 9. Also the interference of James Parberry, assignee of Menoah Singleton's pre-emption of 1,000 acres, and bounded as follows, to wit: beginning at (5) a buckeye and two sugar trees, and buckeye, corner to said pre-emption; thence, running with a line thereof S. 70 degrees W. 26 poles, crossing Flat run, to (61) two elms, an ash, and two sugar trees, in Miller's line; thence, with said line N. 74 poles, to (60) an elm and sugar tree, by a drain in Parberry's old line; and thence, with said line S. 20 E. 70 poles, to the beginning, containing 5½ acres and 30 poles.

43.

No. 10. Also the interference of Prettyman Merry's 1,890 acres with Miller's 1,687 acres, and bounded as follows: beginning at (11) a buckeye in a field, corner to said Merry; thence with his old line, N. 51½ degrees W. 64 poles, to (45) a buckeye, hickory, and sugar tree in a sink hole, and in Miller's west boundary line; thence with said line, north 143 poles, to C, a dead mulberry, fallen black locust and hickory, Miller's northwest corner; thence with another of his lines, east 198 poles, to two box elders, a hickory, and black locust, at (46) in Prettyman Merry's old line; and thence with said line, S. 38½ degrees W. 236 poles, to the beginning, containing 135½ acres and 29 poles.

No. 11. Also the interference of Cave Johnson's 800 acres, and bounded as follows, to wit: beginning at (46) two box elders, a hickory, and black locust, in Henry Miller's line; thence with said line, east 202 poles, to D, a stake in a field, northeast corner to said (16) 1,687 acres survey; thence with another line thereof, south 264 poles, to a stake in a field, at (51,) supposed to be in Cave Johnson's old line; thence with said line, S. 38½ degress W. 278 poles, to (17) a stake, Johnson's corner, a large hickory, hoopwood hickory, and buckeye, as called for in his patent, is missing or not found, nor is the line 51 17 marked; thence, N. 51½ degrees W. 260 poles, to (5) two sugar trees and a buckeye, corner to Cave Johnson and James Parberry, saw no line; thence with Johnson and Parberry's line, N. 20 degrees W. 70 poles, to (60) an elm and sugar tree, by a drain in Miller's line; thence with said line, north 110 poles, to (45) a buckeye, hickory, and sugar tree, in a sink hole in Johnson and Merry's line; thence with said line, S. 51½ degrees E. 64 poles, to (11) a buckeye in Piper's field, corner to said Johnson and Merry; and thence with their line, N. 38½ degrees E. 236 poles, to the beginning, containing 826 acres.

No. 12. Also the interference of John Taylor and Reuben Proctor's 3,000 acres, and bounded as follows, to wit: beginning at (20) a hickory and box elder, 84 poles S. 43¾ degrees W. from the log pond (marked 40;) thence with Taylor and Proctor's line, N. 46½ degrees W., crossing two branches, 134 poles, to (42) a stooping buckeye, and honey locust, and an elm, and black walnut, in Miller's line; thence with said line, north 81 poles, to C, a dead mulberry, fallen black locust, and hickory, Miller's N. W. corner; thence with Miller's line, east 257 poles, to (41) a stake between five buckeyes, two hickories, and an elm sapling, and large ash, all pointed, in Taylor and Proctor's line; and thence with said line, S. 43¾ degrees W. 151 poles, to the log pond at (40,) course continued, in all 235 poles, to the beginning, containing 163¾ acres.

No. 13. Also the interference of Reuben Proctor's 1,000 acres with said Miller's 1,387 acres, and bounded as follows, to wit: beginning at (20) hickory and box elder, 84 poles south 43¾ degrees from the log pond; thence with Taylor and Proctor's line, N. 43¾ degrees E. 235 poles, to (41) a stake between five buckeyes, two hickories, an elm sapling, and large ash, all pointed, in Miller's line; thence with said line, east 143 poles, to D, a stake in a field, Miller's northeast corner; thence with another of his lines, south 350 poles, to (52) an ash stump, buckeye, and box elder, in Reuben Proctor's line; thence with said line, S. 43¾ degrees W. 81 poles, to 24, a post in a field, corner to said Proctor, and Howard, and Morgan; and thence with Proctor's line, N. 46¾ degrees W. 340 poles, to the beginning, containing 499¾ acres.

No. 14. Also the interference of James Howard and Charles Morgan's 900 acres, and bounded as follows, to wit: beginning at (24) a stake in a field, corner to said Howard and Morgan, and Reuben Proctor; thence with their line, north 41½ degrees east, 81 poles, to (52) an ash stump, buckeye, and box elder, in Miller's line; thence with said line, south 112 poles, to (58) a stake, 1¾ poles, north 46½ degrees west, from a large oak; and thence north 46½ degrees west, 81 poles, to the beginning, containing 20½ acres.

No. 15. Also the interference of William Wright's 250 acres, part of Thomas Swearingen's military survey of 1,000 acres, and bounded as follows, to wit: beginning at (47) a black walnut and buckeye, in Miller's line; thence with said line, east 125 poles, to D, a stake in a field, northeast corner to Miller's survey; thence with another of his lines, south 140 poles, to (48) a buckeye, hickory, and sugar tree, in Wright's line; thence with said line, south 50 degrees west, 6 poles, to a sugar tree, buckeye stump, and sugar tree, at (33) corner to Wright in Black's line; and thence with said line, north 40 degrees west, 181 poles, to the beginning, containing 58 acres.

No. 16. Also the interference of William Black's 281 acres with said Miller's 1,687 acres, and bounded as follows, to wit: beginning at A, a stake, and dead mulberry, and box elder, at the intersection of Miller's north boundary line with Black and Swearingen's northwest boundary line; thence running with Miller's line, east 261 poles, to (47) a black walnut and a buckeye, in the dividing line between Black and William Wright; thence with said line, south 40 degrees east, 43 poles, to (35) two black walnuts, a black ash, and ash stump, corner to said William and Samuel Black's land; thence with their line, south 48½ degrees west, 218 poles, to (34) a stake between a pointed buckeye, sugar tree, two box elders, and a small blue ash, corner to said William and Samuel Black, in Swearingen's old line; thence with said line, north 41½ degrees west, 208 poles, to O, near Z, a stake between a black locust, two blue ashes, and two hickories, all pointed, at the intersection of Swearingen's southwest boundary line with Miller's west boundary line; thence with Miller's, north 11½ poles, to O, between C, Z, a box elder, at the intersection of Miller's west boundary line with Swearingen and William Black's northwest boundary line; and thence with said Black and Swearingen's line, north 48½ degrees east, 19 poles, to the beginning, containing 189 acres.

No. 17. Also the interference of Samuel Black's 281 acres, part of Thomas Swearingen's 1,000 acres, on M. W., and bounded as follows, to wit: beginning at F, a large black ash, near three marked sugar trees and a honey locust on the top of the dividing ridge between Hinkston and Stoner, and corner to both Swearingen's surveys; thence with a line of the military warrant, north 41½ degrees west, 217 poles, to (34) a stake between a pointed buckeye, sugar tree, two box elders, and a small blue ash, corner to William Black's land; thence with his line, north 48½ degrees east, 218 poles, to (35) two black walnuts, a black ash, and ash stump, in William Wright's line, and corner to William Black; thence with Wright's line, south 40 degrees east, 144 poles, to 49, a sugar tree in Henry Miller's east boundary line; thence with said line, south 87 poles, to (50) a stake at the intersection of Swearingen's southeast boundary line with Miller's east line, half a pole north 48½ degrees east from a marked box elder; and thence with Swearingen's line, south 48½ degrees west, 155 poles, to the beginning, containing 269¾ acres.

44.

No. 18. Also the interference of Victor Larimer's 220 acres, part of Reuben Proctor's 1,000 acres, and also part of a 1,000 acres patented to Parmenus Briscoe, and bounded as follows, to wit: beginning at (37) a stake at the intersection of Swearingen's with Taylor and Proctor's line, south 43½ degrees west 52 poles from the log pond; thence with Taylor and Proctor's line, south 43½ degrees west, 52 poles, to (20) a hickory and box elder, corner to Reuben Proctor's 1,000 acres; thence with his line south 46½ degrees east, 340 poles, to a stake in a field at (24), corner to said Proctor, and to Howard and Morgan; thence with their line, south 43½ degrees east, 81 poles, to (52) an ash stump, buckeye, and box elder, in Miller's line; thence with said line north, 113 poles, to (50) a stake half a pole north 43½ degrees east from a marked box elder in Thomas Swearingen's line; thence with said line, south 43½ degrees west, 155 poles, to F, a large black ash on the dividing ridge between Hinkston and Stoner, near three marked sugar trees and a honey locust, corner to Swearingen; and thence with his line, north 41½ degrees west, 250 poles, to the beginning, containing 101 acres.

No. 19. Also the interference of John McIntire's moiety of 500 acres, part of Nicholas McIntire's 1,000 acres, and bounded as follows, to wit: beginning at (G) two hickories between two marked sugar trees, corner to Nicholas McIntire's 1,000 acres; thence with his line, south 43½° west, 258 poles, to (28) three large ironwoods from one root; thence north 46½° west, 174 poles, to (44) a stake in Miller's line; thence with said line, north 256 poles, to four white hickories, and a white oak, at (43) in Nicholas McIntire's old line; thence with said line, north 43½° east, 96 poles, to (K) an ash, and two ash and a sugar tree stumps, Nicholas McIntire's old corner, in Swearingen's line; and thence with said line, north 41½° east, 346 poles, to the beginning, containing 478¾ acres and 20 poles.

No. 20. Also the interference of the other or remaining moiety, and bounded as follows, to wit: beginning at (57) a box elder, at the intersection of Miller's west line with the southeast boundary line of Nicholas McIntire's 1,000 acres; thence with McIntire's line north 43½° east 180 poles to three large ironwoods growing from one root at (28), north 46½° west, 174 poles, to (44) a stake in Miller's west boundary line; and thence with said line, south 245 poles, to the beginning, containing 97⅝ acres.

Z. EASTIN, *S. B. C.*

WILLIAM PERKINS,
MOURNNIG KENDALL,
JOHN KIRKPATRICK, } *C. C.*

Depositions.

The deposition of Moses Thomas, of lawful age, taken at Harrod's lick, and to be read in evidence in a suit in chancery, depending in the federal circuit court for the district of Kentucky, in which Miller's heirs are plaintiffs, and Laban Shipp and others defendants. The said deponent being duly sworn, deposeth and saith, that the said deponent came to Kentucky in company with Enoch Smith, Richard Spurr, and others, in the year 1779, and made his home at Boonsborough during that winter and spring following. I became acquainted with this place, which was then called Harrod's lick, and has ever since been known by that name. Question by the agent of Miller's heirs. Was it then generally known and considered as a place of notoriety by the inhabitants of Boonsborough? Answer.

No. 14. Also the interference of James Howard and Charles Morgan's 900 acres, and bounded as follows, to wit: beginning at (24) a stake in a field, corner to said Howard and Morgan, and Reuben Proctor; thence with their line, north 41½ degrees east, 81 poles, to (52) an ash stump, buckeye, and box elder, in Miller's line; thence with said line, south 112 poles, to (58) a stake, 1¾ poles, north 46½ degrees west, from a large oak; and thence north 46½ degrees west, 81 poles, to the beginning, containing 20½ acres.

No. 15. Also the interference of William Wright's 250 acres, part of Thomas Swearingen's military survey of 1,000 acres, and bounded as follows, to wit: beginning at (47) a black walnut and buckeye, in Miller's line; thence with said line, east 125 poles, to D, a stake in a field, northeast corner to Miller's survey; thence with another of his lines, south 140 poles, to (48) a buckeye, hickory, and sugar tree, in Wright's line; thence with said line, south 50 degrees west, 6 poles, to a sugar tree, buckeye stump, and sugar tree, at (33) corner to Wright in Black's line; and thence with said line, north 40 degrees west, 181 poles, to the beginning, containing 58 acres.

No. 16. Also the interference of William Black's 281 acres with said Miller's 1,687 acres, and bounded as follows, to wit: beginning at A, a stake, and dead mulberry, and box elder, at the intersection of Miller's north boundary line with Black and Swearingen's northwest boundary line; thence running with Miller's line, east 261 poles, to (47) a black walnut and a buckeye, in the dividing line between Black and William Wright; thence with said line, south 40 degrees east, 43 poles, to (35) two black walnuts, a black ash, and ash stump, corner to said William and Samuel Black's land; thence with their line, south 48½ degrees west, 218 poles, to (34) a stake between a pointed buckeye, sugar tree, two box elders, and a small blue ash, corner to said William and Samuel Black, in Swearingen's old line; thence with said line, north 41½ degrees west, 208 poles, to O, near Z, a stake between a black locust, two blue ashes, and two hickories, all pointed, at the intersection of Swearingen's southwest boundary line with Miller's west boundary line; thence with Miller's, north 11½ poles, to O, between C, Z, a box elder, at the intersection of Miller's west boundary line with Swearingen and William Black's northwest boundary line; and thence with said Black and Swearingen's line, north 48½ degrees east, 19 poles, to the beginning, containing 189 acres.

No. 17. Also the interference of Samuel Black's 281 acres, part of Thomas Swearingen's 1,000 acres, on M. W., and bounded as follows, to wit: beginning at F, a large black ash, near three marked sugar trees and a honey locust on the top of the dividing ridge between Hinkston and Stoner, and corner to both Swearingen's surveys; thence with a line of the military warrant, north 41½ degrees west, 217 poles, to (34) a stake between a pointed buckeye, sugar tree, two box elders, and a small blue ash, corner to William Black's land; thence with his line, north 48½ degrees east, 218 poles, to (35) two black walnuts, a black ash, and ash stump, in William Wright's line, and corner to William Black; thence with Wright's line, south 40 degrees east, 144 poles, to 49, a sugar tree in Henry Miller's east boundary line; thence with said line, south 87 poles, to (50) a stake at the intersection of Swearingen's southeast boundary line with Miller's east line, half a pole north 48½ degrees east from a marked box elder; and thence with Swearingen's line, south 48½ degrees west, 155 poles, to the beginning, containing 269¾ acres.

44.

No. 18. Also the interference of Victor Larimer's 220 acres, part of Reuben Proctor's 1,000 acres, and also part of a 1,000 acres patented to Parmenus Briscoe, and bounded as follows, to wit: beginning at (37) a stake at the intersection of Swearingen's with Taylor and Proctor's line, south 43½ degrees west 52 poles from the log pond; thence with Taylor and Proctor's line, south 43½ degrees west, 52 poles, to (20) a hickory and box elder, corner to Reuben Proctor's 1,000 acres; thence with his line south 46½ degrees east, 340 poles, to a stake in a field at (24), corner to said Proctor, and to Howard and Morgan; thence with their line, south 43½ degrees east, 81 poles, to (52) an ash stump, buckeye, and box elder, in Miller's line; thence with said line north, 113 poles, to (50) a stake half a pole north 43½ degrees east from a marked box elder in Thomas Swearingen's line; thence with said line, south 43½ degrees west, 155 poles, to F, a large black ash on the dividing ridge between Hinkston and Stoner, near three marked sugar trees and a honey locust, corner to Swearingen; and thence with his line, north 41½ degrees west, 250 poles, to the beginning, containing 101 acres.

No. 19. Also the interference of John McIntire's moiety of 500 acres, part of Nicholas McIntire's 1,000 acres, and bounded as follows, to wit: beginning at (G) two hickories between two marked sugar trees, corner to Nicholas McIntire's 1,000 acres; thence with his line, south 43½° west, 258 poles, to (28) three large ironwoods from one root; thence north 46½° west, 174 poles, to (44) a stake in Miller's line; thence with said line, north 256 poles, to four white hickories, and a white oak, at (43) in Nicholas McIntire's old line; thence with said line, north 43½° east, 96 poles, to (K) an ash, and two ash and a sugar tree stumps, Nicholas McIntire's old corner, in Swearingen's line; and thence with said line, north 41½° east, 346 poles, to the beginning, containing 478¾ acres and 20 poles.

No. 20. Also the interference of the other or remaining moiety, and bounded as follows, to wit: beginning at (57) a box elder, at the intersection of Miller's west line with the southeast boundary line of Nicholas McIntire's 1,000 acres; thence with McIntire's line north 43½° east 180 poles to three large ironwoods growing from one root at (28), north 46½° west, 174 poles, to (44) a stake in Miller's west boundary line; and thence with said line, south 245 poles, to the beginning, containing 97⅝ acres.

Z. EASTIN, *S. B. C.*

WILLIAM PERKINS,
MOURNNIG KENDALL,
JOHN KIRKPATRICK, } *C. C.*

Depositions.

The deposition of Moses Thomas, of lawful age, taken at Harrod's lick, and to be read in evidence in a suit in chancery, depending in the federal circuit court for the district of Kentucky, in which Miller's heirs are plaintiffs, and Laban Shipp and others defendants. The said deponent being duly sworn, deposeth and saith, that the said deponent came to Kentucky in company with Enoch Smith, Richard Spurr, and others, in the year 1779, and made his home at Boonsborough during that winter and spring following. I became acquainted with this place, which was then called Harrod's lick, and has ever since been known by that name. Question by the agent of Miller's heirs. Was it then generally known and considered as a place of notoriety by the inhabitants of Boonsborough? Answer.

It was, by all the woodmen; and I was frequently at it with companies from there. Question by same. Was there any road or trace passing by the lick in that early time, or how soon after? Answer. There was a trace, by some called the Lower Blue Lick trace, which passed directly by this place in a northerly direction: this was also called the Hunter's trace. And further this deponent saith not.

MO. THOMAS.

Also, the deposition of William Clinkinbeard, of lawful age, being duly sworn, deposeth and saith, that some time in the summer of the year 1780, he became acquainted with this place; it was then, and has ever since been known to him by the name of Harrod's lick. There was then a very public trace led from Boonsborough directly by it in a northerly direction, called the Salt Spring or Lower Blue Lick trace. I then lived at Strodes' station; and there was that fall a trace opened from there, which fell into the trace by this place. Question by the agent of Miller's heirs. Was it a place of notoriety at Strodes' station at that time? Answer. It was known to several there, and I often heard of it. And further this deponent saith not.

his
WILLIAM × CLINKINBEARD.
mark

Also, the deposition of Joshua Stamper, of lawful age, being duly sworn, deposeth and saith, that his first acquaintance with this place was in February, 1780; and that he has known it by the name of Harrod's lick then and ever since. I made my home at Strodes' station; and I came here with four or five in a party, on our way to the Lower Blue Licks. And further this deponent saith not.

JOSHUA STAMPER.

BOURBON COUNTY, sc.

We, Valentine Peers and Thomas Mitchell, justices of the peace for the county aforesaid, do certify that the several depositions contained herein were taken and duly subscribed and sworn to at the spring or lick above described, called Harrod's lick, before us, this 26th day of March, 1810.

VAL. PEERS, [SEAL.]
THOMAS MITCHELL, [SEAL.]

The deposition of Isaac Clinkinbeard, of lawful age, taken at the house of Thomas Kennedy, in Bourbon county, agreeably to notice, on Tuesday, the 10th day of December, 1811, and intended to be read in evidence in a suit now depending in the federal court in Frankfort, in which Miller's heirs are plaintiffs, and Laban Shipp and others defendants. The said deponent being first duly sworn, deposeth and saith, that, in the summer of the year 1780, this deponent became acquainted with a road or trace called and known by the name of McMullin's trace or road. This was a pretty large trace; and this deponent was accustomed to hunt upon and along the dividing ridge between it and Harrod's lick: and I do not recollect of any road or trace between that and Harrod's lick; that is, which crossed the dividing ridge. There was a trace which Jemmy McMillan and Robert McMillan told me they had marked across the dividing ridge that led from Boonsborough along through Harrod's lick. This was called the East Spring trace, and intersected with McMullin's trace about a mile above

43.

Flat lick; and this deponent recollects that he shewed the latter (McMillan's) trace, last winter, to the surveyor of this county, Zachariah Eastin, by desire of Samuel Black. Question by Samuel Black, in behalf of the defendants. Was that old buffalo road, which was afterwards called McMillan's road, generally known or frequently spoken of by hunters in early times? Answer. It was spoken of by my acquaintances; and some called it McMillan's road, and some McMillan's trace. It was the largest of any that I knew between that and the head of Stoner creek. Question by John Curry as agent for plaintiffs, Miller's heirs. Did you ever show Harrod's lick to Zachariah Eastin, the present surveyor of Bourbon county? Answer. I have shown it several times to the surveyor of this county; and this deponent believes that he did show it to Mr. Eastin, but does not recollect in what particular. By same. Was the said lick a place of notoriety in 1782, or prior to that time? Answer. I believe it was to the hunters of my acquaintance. By S. Black, for defendants. Was or was not the buffalo road above alluded to as well known by the hunters in early times as Harrod's lick? Answer. I believe it was by my acquaintances. And further this deponent saith not.

ISAAC CLINKINBEARD.

Also, the deposition of Joshua Stamper, of lawful age, taken in the same case, being duly sworn, deposeth and saith, that this deponent has been acquainted with the trace called McMullin's trace ever since the summer of 1780, and does not recollect of its being marked at all; but that it was a buffalo trace; but where the Salt Spring trace intersected with McMullin's trace, there it was marked. This deponent frequently hunted along the dividing ridge between that place and Harrod's lick, and does not recollect of any leading trace that led between that trace (McMullin's) and Harrod's lick across the dividing ridge. Question by Samuel Black. Was there not a trace marked by hunters from Harrod's lick across the dividing ridge you have just mentioned, that intersected with McMullin's trace? Answer. There was a trace marked from Harrod's lick up into the dividing ridge nearly to the top of it, and from there down along Flat lick; it was thickly marked until where it intersected with McMillan's trace. By same. Was or was not that old buffalo road afterwards called McMullin's trace, and as notoriously known by hunters as Harrod's lick was? Answer. I believe among my acquaintances of the hunters it was as notoriously known. And further this deponent saith not.

JOSHUA STAMPER.

Also, the deposition of William Clinkinbeard, of lawful age, taken in the same case; and being duly sworn, deposeth and saith, that he did become acquainted with the trace called McMullin's trace in the summer of 1780. It was a buffalo road or trace, and was sometimes called a road and sometimes a trace by the hunters. This deponent frequently hunted through the woods between the said trace and Harrod's lick, along the dividing ridge, and does not recollect any marked road or trace which crossed the said dividing ridge; but remembers a marked trace, which was said to lead from Boonsborough to the Lower Blue licks by Harrod's lick, and leading along by Flat lick and Round lick, and intersected with McMullin's trace just below the Round lick. Question by S. Black. Was not McMullin's trace very generally known and spoken of by the hunters in early times, and as much

so as Harrod's lick? Answer. It was by my acquaintances. And further this deponent saith not.

his
WILLIAM × CLINKINBEARD.
mark

Also the deposition of Thomas Kennedy, of lawful age, taken in the same case, and being duly sworn, deposeth and saith, that, in the year 1776, this deponent was shewed a spring near the ford of Stoner, and near which Doctor Barnel now lives, which was called McMullin's spring, and which lies on the road, then also called Mullin's road or trace, for it was sometimes called a road and sometimes a trace. It was a large plain road, and led to the Lower Blue licks. Question by Samuel Black. Was there any other large or leading road leading across the dividing ridge between that road and Harrod's lick? Answer. There was none of any consequence, but there was a trace leading from Boonsborough to the Lower Blue lick, by Harrod's lick, that intersected with that (McMillan's) road or trace. This road, however, though said to be marked by the people at Boonsborough with a tomahawk, was not so plain across the dividing ridge that I could ever follow it. This deponent showed the road or trace called McMillan's to Zacha. Eastin, surveyor of Bourbon county, he believes in February last. By John Curry, as agent for Miller's heirs. Did you ever show Harrod's lick to Zachariah Eastin, surveyor of Bourbon county, and when? Answer. I have showed it to Mr. Eastin, but cannot remember when? By same. Was not Harrod's lick a place of notoriety prior to 1782? Answer. Yes, it was. By Samuel Black. The road called McMullin's, which you have described, was it not as much noted in early times, say in 1776, as Harrod's lick? Answer. To me and my acquaintances it was. And further this deponent saith not.

THOMAS KENNEDY.

BOURBON COUNTY, sct.

Whereas farther depositions are intended to be taken in this case by the defendants aforesaid, be it known that the parties have agreed to adjourn until to-morrow, and to meet at Paris, at the house of Robert Brenham, at one o'clock in the afternoon. Before us, this 10th day of December, 1811.

THOMAS HUGHES,
VAL. PEERS.

BOURBON COUNTY, sct.

No one appearing to give evidence, the subscribers, two of the justices of the peace for the Commonwealth of Kentucky, and county aforesaid, do certify that the foregoing depositions of Isaac Clinkinbeard, Joshua Stamper, William Clinkinbeard, and Thomas Kennedy, were duly taken, subscribed, and sworn to, as stated in the preamble before us. Given under our hands and seals, this 11th day of December, 1811.

THOMAS HUGHES, [SEAL.]
VAL. PEERS, [SEAL.]

The deposition of Isaac Clinkinbeard, of lawful age, taken in behalf of Miller's heirs, by their agent, at Harrod's lick, on Tuesday, the 24th day of December, 1811, and intended to be read in evidence in a suit now depending in the federal district court at Frankfort, in which Miller's heirs are plaintiffs, and Laban Shipp and others defendants. The said deponent being duly sworn, deposeth and saith, that the spot at which we now are

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was called and known by the name of Harrod's lick in the summer of 1780, when this deponent first came to it; and that it was well known to the people from Boonsborough and Stroud's station, and this deponent often hunted about it with many of the hunters of that time. This deponent further recollects, that he did show the lick to the county surveyor, Zacha. Eastin, in the case of Stark and Bedford, and he thinks about and between two and three years ago. And further this deponent saith not.

ISAAC CLINKINBEARD.

Also the deposition of Thomas Kennedy, of lawful age, taken in the same case, and same time. The deponent being duly sworn, deposeth and saith, that, in the spring or summer of the year 1780, this deponent was at this place, which was then, and has been ever since, called and known by the name of Harrod's lick; that the people from Boonsborough and Stroud's station always passed by it on their way to the Lower Blue licks, and to hunt; and that it was well known generally to all the people in this part of the country, and to the hunters, as this deponent does believe. This deponent recollects that about three or four years ago he showed the said lick to the county surveyor of this county, (Bourbon,) Zacha. Eastin, but does not recollect in what particular case. And further this deponent saith not.

THOMAS KENNEDY.

BOURBON COUNTY, sct.

The subscribers, William B. Branham and Valentine Peers, two of the justices of the peace, for the county aforesaid, do certify, that the foregoing depositions of Isaac Clinkinbeard and Thomas Kennedy were duly taken, subscribed, and sworn to, as stated in the preamble, before us, this 24th day of December, 1811, and there. Given under our hand and seals.

VAL. PEERS, [SEAL.]
WM. B. BRANHAM, [SEAL.]

The deposition of John Price, being of lawful age, and duly sworn, taken to be read in evidence, in a suit in the federal circuit court, wherein Samuel Miller and others are complaiants, and Laban Shipp and others are defendants, now pending and undetermined, deposeth and saith, that he has examined the original books of entries in his office, and finds no entry in the name of Chapman Aston for 4,000 acres, since the 11th of December, 1782, taken at the surveyor's office of Fayette county 30th September, 1814. And further this deponent saith not. J. PRICE, *S. F. C.*

STATE OF KENTUCKY, } sct.
Fayette County, }

The foregoing deposition was taken, sworn, and subscribed to before us, two justices of the peace in and for the county, aforesaid, at the surveyor's office in Lexington, this 30th day of September, 1814.

JOHN BRADFORD, *J. P. F. C.*
OLIVER KERN, *J. P. F. C.*

The deposition of Jacob Sodusky, of lawful age, taken at the dwelling house of Major George Ramsey, in the county of Jessamine, and State of Kentucky, to be read as evidence in the seventh honorable circuit court of the United States, of the district of Kentucky, wherein Samuel Miller and others are complainants, and Laban Shipp and others are defendants. This deponent being first duly sworn, deposeth and saith. Question by Samuel Black, one

of the defendants. Were you acquainted with a large buffalo road that crossed Stoner at (or near) the mouth of McMillan's branch, leading from thence to the Lower Blue licks? Answer. I became acquainted with a large buffalo road, leading down Green creek to the Lower Blue licks, in the year 1776, and crossed (what is now called) Stoner below the mouth of Green creek, and above where Stoner made his improvement in the year 1776. Question by same. What were the distinguishing objects on that road as far as Hinkston? Answer. The said road, after leaving what is now called Stoner, passed on over the dividing ridge between Stoner and Hinkston, falling on a branch leading into Hinkston, passing two licks, one (then) called the Round or Randolph's lick, the other called the Flat lick. Question by same. Was there any other large buffalo road crossing the dividing ridge beside the one you have already described, and Harrod's lick? Answer. I know of no other large buffalo road of notoriety, west of Harrod's lick, above Stoner's improvement, but the one I have already described. Question by same. When and how long were you acquainted in that quarter? Answer. In May, 1776, I was first there, and staid between 10 or 15 days; part of that time I was at Harrod's lick, part of the time at what was called the Round or Randolph's lick, and part of the time between the two places. In July following, I returned back, and camped near the Round or Randolph's, and staid some time and hunted. And further this deponent saith not.

JACOB SODUSKY.

The deposition of Robert Shanklin, of lawful age, taken at the same time and place, to be read in evidence in the same case. This deponent being first duly sworn, deposeth and saith. Question by Samuel Black, one of the defendants. Were you acquainted with a large buffalo road that crosses at or near the mouth of McMullin's branch, leading from thence to the Lower Blue licks? Answer. I was acquainted with a large buffalo road in the fall 1775, and spring 1776, that crossed what is now called Stoner below Harrod's lick creek, and above Stoner's old improvement, and believes it to be the same road as Jacob Sodusky alluded to in his deposition. Question by same. Was there any other large buffalo road betwixt the road as above described and Harrod's lick? Answer. There was none, to the best of my knowledge. And further this deponent saith not.

ROBERT SHANKLIN.

JESSAMINE COUNTY, sct.

The foregoing depositions was taken, subscribed, and sworn to, before us, two of the Commonwealth's justices of the peace in and for said county, as witness our hands and seals, this 3d day of May, 1815.

JOHN METCALF, [SEAL.]
RICHARD LAFON, [SEAL.]

JESSAMINE COUNTY, to wit:

I do certify, that, agreeably to the notice hereto annexed, I met one of the defendants at the time and place therein named; and it being a very rainy day, I adjourned until the next day, which is the date of the above depositions.

Given under my hand and seal, this 3d day of May, 1815.

RICHARD LAFON, *J. P. J. C.*

The deposition of John McIntire, taken at the office of Thomas Hughes, Esq., in the town of Paris, in Bourbon county, on the 7th day of February.

1815, to be read as evidence in a suit in chancery depending in the circuit court of the United States for the district of Kentucky, wherein Samuel Miller and others are complainants, and Laban Shipp and others are defendants, taken on behalf of the defendants, in the presence and by the consent of John Curry, agent for the complainants. This deponent, being of lawful age, and first duly sworn, deposeth and saith, that, in the month of April, in the year 1780, before the opening of May's office, this deponent, together with Major Thomas Swearingen and John Constant, started from Stroud's station, to explore the country and locate lands; and after having travelled a few days, we went to a spring near where Samuel Black, one of the defendants in this suit, now lives; which spring was shewn by this deponent to Zachariah Eastin, the surveyor of Bourbon county, when he was making the survey in this cause. At the time we were at the said spring, in the year 1780, as aforesaid, this deponent saw a tree, which this deponent now thinks was a cherry tree, which stood near said spring, on which there was cut some letters, but this deponent does not now recollect exactly what the letters were, but he thinks they were the letters A B C. The said Swearingen then made the letters T S, being the initials of his name, on said tree, and observed to the company present he would lay a military warrant of 1,000 acres on that place. A short time afterwards, said Swearingen made an entry on a military warrant in the surveyor's office, in the presence of this deponent, which entry called to include said spring at which said tree stood, marked with the said letters T S. At the time said letters were made on said tree by said Swearingen, the company present agreed to call said spring by the name of Swearingen's spring; and this deponent well recollects that at the time said entry was made, said spring was well known by a large majority of the hunters and improvers in that part of the country, and by a majority of the inhabitants of Stroud's station, by the name of Swearingen's spring; and he also states, that Stroud's station was the nearest station to said spring at that time, except Martin and Ruddle's stations; and he also states, that, soon after said entry was made, said spring was notoriously known by the name of Swearingen's spring, and has been known by that name ever since. This deponent further states, that he was along when the survey was made on said entry, some time in the year 1782 or 1783, and carried the chain a part of the time; but whether this deponent was returned as a chain carrier or not, he does not know.

Question by John Curry. Are you or are you not interested in the claim held by Miller's heirs? Answer. I located 1,000 acres in the name of Nicholas McIntire, my father, which interferes with said claim of Miller's heirs; and my father is dead, but in his lifetime gave me a bond for 500 acres of said land, which I located for my father as aforesaid; but I have no interest in said Swearingen's claim. Question by the defendant Samuel Black. Were you acquainted with Stoner's spring in early times in this country? Answer. I became acquainted with said spring early in the month of April, 1780, and suppose said spring is about five or six miles from Swearingen's spring; and I think that was the reputed distance between said springs at that time. By same. Were you acquainted with the woods between Swearingen's spring and Harrod's lick, in the years 1780 and 1781? Answer. I was. By same. Was there or was there not, in 1780 or 1781, any buffalo road between Swearingen's spring and Harrod's lick, crossing the dividing ridge between Stoner and Hinkston? Answer. There was an old buffalo road between Swearingen's spring and Harrod's

lick at that time, which crossed Stoner at McMullin's spring, and was known by the name of McMullin's trace; said trace led from Stroud's station to the Lower Blue licks, but I know of no other buffalo road between Swearingen's spring and Harrod's lick at that time. By same. Was there or was there not a Buffalo road, in the year 1780, that led up Harrod's lick creek? Answer. There was, and it went up said creek about three quarters of a mile, then turned off to the right, crossed the dividing ridge between Hinkston and Stoner, and went on to Clear creek. I understood that there was a trace leading from Harrod's lick to the Lower Blue licks, and I attempted to follow it several times, but when I come to the dividing ridge between Hinkston and Stoner, it became so dim that I could not follow it. And further this deponent saith not.

JOHN McINTIRE.

BOURBON COUNTY, set.

The foregoing deposition of John McIntire, taken and sworn to before us, two of the Commonwealth's justices of the peace for Bourbon county, at the time and place, and for the purpose in the preamble mentioned, in the presence and by the consent of John Curry, agent for the complainants.

Given under our hands and seals, this 17th day of February, 1815.

THOMAS HUGHES. [SEAL.]
THOMAS JONES. [SEAL.]

The deposition of Matthew Kenney, of lawful age, taken agreeably to a notice herewith filed, to be read as evidence in a suit in chancery now depending and undetermined in the federal court of the United States for the district of Kentucky; wherein the heirs of Henry Miller, deceased, are plaintiffs, and Laban Shipp and others are defendants; being duly sworn, deposeth and saith, that he was intimately acquainted with the family of Henry Miller, deceased, and has no doubt but that Samuel Miller, James Miller, William Miller, Henry Miller, John Lewis, and Rachael his wife, James Moffitt, and Hannah his wife, John Estill, and Martha his wife, are heirs of said H. Miller, deceased; but there is none of them inhabitants of this Commonwealth; and also that some of them are under the age of twenty-one years on the 9th day of April, 1804. And further this deponent saith not.

MATHEW KENNEY.

Also the deposition of George Hunt, of lawful age, taken as aforesaid, being sworn, deposeth and saith, that he lived in said H. Miller's family near two years, and acquainted with them thirty years, and has no doubt that the persons herein named are heirs of said H. Miller, deceased, viz: Samuel Miller, James Miller, William Miller, Henry Miller, John Lewis, and Rachael his wife, James Moffitt and Hannah his wife, and John Estill, and Martha his wife; and that there is none of them inhabitants of this State; also, that some of them were under the age of twenty-one years on the 9th day of April, 1804. And further this deponent saith not.

GEORGE HUNT.

Also the deposition of John Curry, taken as aforesaid, of lawful age, being sworn, deposeth and saith, that he was intimately acquainted with the family of H. Miller, deceased, and does not hesitate in saying that he has no doubt that Samuel Miller, James Miller, William Miller, John Lewis, and Rachael his wife, James Moffitt, and Hannah his wife, John Estill, and Mar-

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tha his wife, are children and heirs of said Miller, deceased, and that none of them are inhabitants of this State; also, that some of them were under the age of twenty-one years on the 9th day of April, 1804. And further this deponent sayeth not.

JOHN CURRY.

FAYETTE COUNTY, sct.

We do hereby certify, that the foregoing depositions of Matthew Kenney, George Hunt, and John Curry, were subscribed and sworn to before us, justices of the peace for said , this 18th day of December, 1811

JAMES WILL, Sen. [SEAL.]
WALLER BULLOCK. [SEAL.]

The deposition of John M. Foster, Register of the land office of the State of Kentucky, taken at the house of Daniel Wiesiger, on the 24th day of September, 1814, in pursuance of an order from the court of the United States of America for the 7th circuit, Kentucky district, to be read as evidence in a certain matter of controversy now depending in said circuit court, wherein Samuel Miller and others are complainants, and Laban Shipp and others are defendants. This deponent, being duly sworn, deposeth and saith, that he has made diligent search, but cannot find an entry in the name of Chapman *Aston* for 4,000 acres in the books of the surveyor of Kentucky county, now deposited in his office; and that he can find an entry in the name of Chapman *Austin* for 4,000 acres. And further this deponent saith not.

JOHN M. FOSTER, *R. L. O.*

FRANKLIN COUNTY, sct.

We, Richard Taylor, jr., and John J. Marshall, two of the Commonwealth's justices of the peace in and for the aforesaid county, do hereby certify that the foregoing deposition was subscribed and sworn to before us.

RICHARD TAYLOR, Jr.
J. J. MARSHALL.

Exhibits omitted.

Know all men by these presents, that I, Parmenus Briscoe, of the county of Mercer, and district aforesaid, for divers good causes and considerations me hereunto moving, have ordained, constituted, and appointed James Twyman, of the county of Woodford, and district aforesaid, my lawful attorney, for me and in my name to sell or otherwise dispose of my log pond tract of land in the county of Bourbon, and a deed of conveyance for me and in my name to execute to the purchaser or purchasers, and the stipulated price thereof to receive to my use; hereby ratifying and confirming whatsoever my said attorney may do respecting the premises; hereby, also, ratifying and confirming a deed of conveyance heretofore made by my said attorney for six hundred and fifty-seven acres of land, on the waters of Eagle creek, to Maurice Ngle Given under my hand and seal, this 8th day of March, 1792.

PAR. BRISCOE, [SEAL.]

Teste,
WILLIAM BLACKBURN.
JOHN FINNEY.

WOODFORD COUNTY, *November court*, 1792.

This letter of attorney was approved in court by the oath of William Blackburn, and ordered to be certified; and at August court, 1795, was further proved by the oath of John Finney, and ordered to be recorded.

Teste, CAVE JOHNSON, *C. W. C.*

A copy. Teste, T. TURPIN, *Clerk.*

In the name of God, amen. I, Nicholas McIntire, of Jefferson county, in the State of Virginia, being of sound mind and memory, do make and ordain this my last will and testament, in manner and form following: That is to say, I give and bequeath unto my two sons, Isaac McIntire and Jacob McIntire, all the use, interest, and income, equally between my two said sons, of the plantation and land where I now live on, until such time as the said land may be sold by my executors hereinafter mentioned; and when the said land is sold for the full value thereof, and it is my will, that, after the land is sold as abovementioned by my executors, that my son Isaac do receive from my executors, of the price of said land, seven hundred dollars, to him and his heirs for ever. Item: I give and bequeath to my son Jacob eight hundred dollars out of the price of said land, and also one negro boy named Bill, and one sorrel stud horse, and one feather bed and furniture, to him and his heirs for ever. Item: I give and bequeath to my grandson William McIntire, son of David McIntire, deceased, one hundred dollars, to him and his heirs for ever. Item: I give and bequeath to my granddaughter Elizabeth Augusta, daughter of David McIntire, deceased, fourteen dollars, to her and her heirs for ever. Item: I give and bequeath to my granddaughter Abigail Welch, daughter of David McIntire, deceased, fourteen dollars, to her and her heirs for ever Item: I give and bequeath to my granddaughter Priscilla Harris, daughter of David McIntire, deceased, fourteen dollars, to her and her heirs for ever. Item: I give and bequeath to my granddaughter Lydia White, daughter of David McIntire, deceased, fourteen dollars, to her and her heirs for ever. Item: I give and bequeath to my grandson Joseph McIntire, son of William McIntire, deceased, ten dollars, to him and his heirs for ever. Item: I give and bequeath to my son Alexander McIntire one negro boy, named Jordan, to him and his heirs for ever. Item: I give and bequeath to my son Joseph McIntire one negro boy, named Elm, and also fifty dollars, to him and his heirs for ever. Item: I give and bequeath unto my son Moses McIntire one dollar, to him and his heirs for ever. Item: I give and bequeath to my grandson Nicholas McIntire, son of Moses McIntire, one negro girl, named Rachel, to him and his heirs for ever. Item: I give and bequeath to my son Thomas McIntire one dollar, to him and his heirs for ever. Item: I give and bequeath to my daughter Elizabeth Linder one dollar, to her and her heirs for ever. Item: I give and bequeath to my son James McIntire one hundred dollars, to him and his heirs for ever. Item: I give and bequeath unto my son John McIntire one hundred dollars, to him and his heirs for ever. Item: I give and bequeath to Prudence Johnson, commonly called Prudence McIntire, one negro woman named Rachael, also one negro girl named Tab, also one bay horse named Sport, and one woman's saddle and bridle that is called hers, to her and her heirs for ever. Item: It is my will and desire that if the said Prudence abovementioned should sue for any claim or claims out of my estate, over and above what is willed to her in this instrument of writing, then and in that case it is my will and desire that what I have willed and

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gave to the said Prudence shall be null and void to all intents and purposes, and said property shall revert back again to my estate. Item: It is my will and desire that after all my just debts and funeral charges is paid, that the remainder of my estate that is heretofore willed shall be equally divided between my two sons Isaac McIntire and Jacob McIntire, and to their heirs for ever.

And last, I do hereby nominate, constitute, and appoint my son Aaron McIntire, and my friend John Morrow, executors of this my last will and testament, ratifying and confirming this to be my last will and testament. In testimony whereof, I have hereunto set my hand and affixed my seal, this twentieth day of March, Anno Domini one thousand eight hundred and five.

NICHOLAS McINTIRE.

Sealed, signed, published, and declared by the said Nicholas McIntire to be his last will and testament, in presence of

BENJAMIN FOREMAN,
JAMES VERDIER,
WILLIAM MORGAN.

At a court held for Jefferson county the eleventh day of June, 1805, this last will and testament of Nicholas McIntire, deceased, was proved by the oaths of Benjamin Foreman, James Verdier, and William Morgan, witnesses thereto, and ordered to be recorded. And on motion of Aaron McIntire, one of the executors therein named, who made oath thereto, according to law, certificate is granted him for obtaining a probate thereof in due form, giving security; whereupon, he, together with James Verdier and James Glenn, his securities, entered into and acknowledged bond in the penalty of twenty thousand dollars, conditioned as the law directs.

Teste, GEO. HITE.

A copy. Teste, GEO. HITE.

Know all men by these presents, that I, Nicholas McIntire, of Berkley county, in the Commonwealth of Virginia, am held and firmly bound unto my son John McIntire, his certain attorney, his heirs, executors, administrators, and assigns, for the consideration of five shillings, to me made and paid, hereby bind and oblige myself, my heirs, executors, and administrators, to grant and give unto my said son John McIntire, his heirs or assigns, the whole and full quantity of five hundred acres of land, lying and being situate near Stroud's station, in the county of Kentucky; and in case I preserve a sufficient holding for my rights at said place, I hereby oblige myself, and my heirs, &c., to give, on receiving the same, a full and sufficient deed of lease and release to my said son John McIntire in fee simple, to be to the only proper use and behoof of the said John McIntire, his heirs and assigns for ever. In witness whereof, I have hereunto set my hand and seal, this day of November, one thousand seven hundred and eighty-four.

NICHOLAS McINTIRE. [SEAL.]

Sealed and delivered in the presence of

WILLIAM McINTIRE,
JAMES McINTIRE,
JACOB LINDER.

A copy. Teste, JOHN H. HANNA, *C. C. C. K. D.*

And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and twenty, until which time this cause was continued, ordered that this cause be stricken off the docket as to the heirs of P. Merry, deceased, for the want of jurisdiction, they being citizens of Virginia.

Answer of Prettyman Merry.

The answer of Prettyman Merry to the bill of complaint exhibited against him and others by Henry Miller's heirs, in the circuit court of the United States for the Kentucky district. This defendant, in answering the said bill, saith, that he has conveyed unto a certain Cave Johnson and Aquila Parker his title to all the land that his survey of 1,890 acres interferes with the survey of the said complainants, as this defendant is informed and believes; and that this defendant holds no title to any part of the land interfering with the said complainants' survey, as shewn to this defendant; and prays to be hence dismissed with his costs, &c.

PRETTYMAN MERRY.

COMMONWEALTH OF KENTUCKY, SCOTT COUNTY, sct.

Personally appeared before me, a justice of the peace for said county, Prettyman Merry, and made oath to the above answer. Given under my hand this 21st August, 1815.

DAVID THOMPSON.

And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and twenty-one, until which time this cause was continued, came the defendants, John and Jacob McIntire, by their counsel, and filed exceptions to the depositions and surveys herein.

Exceptions.

The defendants, Jacob and John McIntire, object and except to the reading of the surveyor's reports returned in this cause, and to all the depositions taken before he was made a party and had been served with process. 1st. Because they were made and taken before he was a party. 2d. Because there has been no notice given to them of the taking said depositions, or making the surveys; those depositions being taken, and those surveys executed, before they were before the court; and as to these defendants, these depositions and reports of survey are ex parte. May 9th, 1821.

BIBB, *for said defendants.*

And at a subsequent day of the term and year last mentioned, on motion of the complainants' counsel, it is ordered that the office judgment, taking the bill for confessed against Cave Johnson, be, and the same is hereby confirmed.

And afterwards, to wit, at the November term of the court aforesaid, and year last mentioned, came the defendants, Jacob McIntire and Charles Morgan, and filed their answers, to which the complainants replied generally. On motion of the complainants by their counsel, it is ordered that the bill against A. McKinney and John Taylor be taken for confessed.

And on motion of the defendants, it is ordered that the surveyor of county do go on the land in controversy between the parties on

the day of next, if fair, if not, on the next fair day, and then and there survey and lay off the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return one fair plat and certificate thereof into the clerk's office of this court, thirty days at least before the day of trial; and the marshal or one of his deputies is directed to attend the said surveyor, to remove force, should any be offered. And on further motion of defendants, leave is given to take depositions generally, in or out of this district, before any two justices of the peace, notary public, or mayor of any city, upon giving to the adverse party legal notice of the time and place of taking the same: and further proceedings are continued herein until the next term, for and at the costs of the defendants.

Jacob McIntire's and Charles Morgan's Answers.

The separate answer of Jacob McIntire to a bill in chancery exhibited against him and others, in the circuit court of the United States in and for the seventh circuit and Kentucky district, by Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffitt, and Hannah his wife, John Estill, and Martha his wife, and Henry Miller.

This respondent, now and ever hereafter saving and reserving to himself all and every benefit of exception to the said bill, and the matters and omissions thereof, for answer thereunto, or to so much thereof as he is bound to answer, saith, that, as one of the residuary legatees of his father Nicholas McIntire, a copy of whose will is filed herewith, he claims one moiety of two tracts of land, by virtue of two entries of one thousand acres each—the one of the said entries being as recited in the said amended bill of the said complainants, the other being in the words and figures following, to wit:

"May 19, 1780. Nicholas McIntire enters one thousand acres upon a T. W. on a drain of Licking, about 5 miles a northwestwardly course from Stroud's spring, to include a small spring where there is a hickory tree marked (Y), to extend southwest for quantity;" which, on the 9th December, 1782, was amended by inserting instead of northwestwardly course from Stroud's spring, "a northwestwardly course from Stoner's spring;" on the 14th day of December, 1782, the said entry was amended by inserting instead of the word northwestwardly the word "northeastwardly," as by attested copies of the said entries and amendment will more fully appear. This defendant is advised to say that said entries of 1,000 acres each are good and valid in law, special and precise; that surveys and patents have been obtained by virtue thereof, and agreeable to the said location; but whether the locations are valid in law, and whether the surveys are agreeable to location, he submits to the judgment and decree of this honorable court: and which of those two entries interfere with the land claimed by the complainants, this respondent is not able to say at this time, but relies on both or either as it may turn out to be on further examination. This respondent is ignorant of the manner in which the complainants derive their claim under the entry of Henry Miller, and therefore calls on the complainants for full and legal proof that they have a right to call this defendant in question in this honorable court by virtue of the entry of Henry Miller, and especially he calls upon them for the proof that they are devisees as stated in the bill. He is not able to say whether said Henry made such entry, and of such date as stated in the bill, and calls for proof thereof. This respondent is not

apprised of any such entry of the date stated in the bill, but nevertheless it may be true, but of this he calls for proof. He does not admit that the entry set up by the complainants is legal or special, or that it has been surveyed agreeably to location; but these are matters which he submits to the decision of the court, meaning hereby to put said allegations in issue. This respondent saith that he and those claiming under the entry of Nicholas McIntire aforesaid have been long possessed in fact, (viz:) for upwards of 20 years, and have been seized in law and in deed for upwards of thirty years before this suit brought against him, and have made lasting and valuable improvements thereon; that whetherafter such adverse possession against the title set up by the complainants, as has been held by Nicholas McIntire, and his devisees, and after such long acquiescence, this honorable court will sustain a bill in equity on behalf of the complainants, this respondent submits to the decision of this court, upon the facts which this defendant will shew forth by proof. He denies all fraud; and having fully answered, prays to be hence dismissed with his costs in this behalf expended. The defendant saith that the complainant has untruly stated in his original bill that he had a patent, when in fact none had been obtained; and he calls upon the complainant to produce and file the grant, and to show that it has been regularly obtained. The defendant relies that the grant of the complainants, if any, has been illegally obtained; that the survey was not made in time, and has been forfeited for want of being duly registered; and that the patent has been illegally and surreptitiously obtained.

The defendant relies on and pleads a possession of upwards of 20 years before filing the bill against them, and pleads and relies on the statute of limitation of seven years, of Kentucky.

COMMONWEALTH OF KENTUCKY, *Franklin county*, sct. *April* 29, 1816.

Before me, the undersigned, one of the Commonwealth's of the peace in and for the county aforesaid, duly commissioned, sworn, and acting as such, came Jacob McIntire, the respondent in the aforegoing answer, and made oath that the statements in the foregoing answer set forth as from his own knowledge are true, and those set forth from the information of others he believes to be true.

Sworn to before me,

O. G. WAGGONER, *J. P.*

Charles Morgan's answer.

The separate answer of Charles Morgan to a bill in chancery exhibited against him and others, in the circuit court of the United States for the district of Kentucky, by Samuel Miller and others, heirs and representatives of Henry Miller, deceased. This defendant, reserving to himself all and all manner of benefit of exception to the many errors, false statements, and uncertainties, as set forth by the complainants' said bill of complaint, for answer thereunto, or so much thereof as he is advised is material for him to make answer unto, answereth and saith, that he hath noticed the entry of 1,687 acres in the name of said Henry Miller, deceased, which he, said defendant, believes to be vague and uncertain; but if it has any special meaning at all, that the survey is not made according to the legal meaning thereof.

This defendant agrees that he holds title by an entry of 900 acres in the name of James Howard and Charles Morgan, which was patented in the

name of David Hughes, who holds the prior patent on said land, which he, said defendant, believes to be the best title in law and equity: he also denies all fraud and unlawful combination, and prays to be hence dismissed, with his costs in this behalf expended.

CHARLES MORGAN.

FRANKLIN COUNTY, set.

Charles Morgan personally appeared before me, the subscriber, a justice of the peace for said county, and made oath that the statements made in the above answer, so far as they relate to his own knowledge, are true, and so far as they relate to the information of others he believes them to be true.

CHARLES MORGAN.

Sworn to this 28th day of November, 1816.

O. G. WAGGONER.

And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and twenty-two, on motion of Jacob McIntire, by his counsel, leave is given him to amend his answer, which is done accordingly, by interlining; and leave is given defendant, John McIntire, to amend his answer, which is filed accordingly, to which the complainants reply generally, and the cause as to the other defendants is submitted to the court.

Jacob McIntire's amended answer.

An amendment to the answer of Jacob McIntire, and the answer of Isaac McIntire, filed to the bill of Miller's devisees, in the circuit court of the United States for the seventh district.

This defendant, in addition to the matters contained and set forth by way of defence in his former answer herein, begs leave to state further, that the patent for 1,000 acres in the complainants' amended bill, and in the former answer of this defendant, mentioned, emanated from the Commonwealth of Virginia, long anterior to the erection of the district of Kentucky into an independent State, viz: on the 15th day of June, in the year 1784; by which, as this defendant is advised, a complete title to the land included within said patent became vested in the said Nicholas McIntire, the patentee and ancestor of this defendant; and this defendant expressly charges, that, at the expiration of the period allowed by the laws of Virginia for surveying entries, such as that of the complainants, as they executed at the time of the separation of the then district of Kentucky from the parent State, was of full age, and free from any of the disabilities by which exceptions from the forfeitures resulting from the omission to survey within the period limited for surveys under the Virginia laws might have been executed; wherefore this defendant insists that their entry is altogether void in law and equity; and this defendant annexes hereto, as part of his answer, a certified copy of the said patent, and prays as in his original answer.

The amended answer in chancery of John McIntire to an original and amended bill of complaint, exhibited against him and others by Henry Miller's heirs, &c., in the seventh circuit court of the United States, Kentucky district. This defendant, now and as heretofore, saving, reserving, &c., for amendment to his original answer filed herein, answers and says, that since the filing of the amended bill and his original answer in this cause, that he has sold and conveyed to Thomas Jones the 500 acres of land in

the original and amended bills mentioned, which deed is under date of the day of 18 and admitted to record in the Bourbon county court clerk's office, which is referred to, or a copy thereof, as a part of this answer; so that, if your respondent ever had the legal title to the said 500, the same is now out of him, and vested in Thomas Jones, or those who may hold under him; and that the tenants in possession of the said 500 acres did not hold under him, but some other claim. Your respondent answers further, and states that the legal title to the 1,000 acres, or any part thereof (except so much thereof as was conveyed by Isaac McIntire and wife, which deed has never been recorded,) is not in this respondent. This respondent holds a bond executed by Nicholas McIntire to him for 500 acres, being an equal moiety of the said 1,000 acres, in the original bill, and amended bill, and his former answer mentioned; and that the legal title thereto rests in the heirs and devisees of Nicholas McIntire, deceased; and your respondent charges, and he is advised to say, that he and those who held under him in said tracts, as well as those from whom he derived his equity, held possession thereof for more than twenty years thence next preceding the institution of the complainants' suit, and that such possession has been adverse and uninterrupted. Your respondent is informed that the complainants have sold and conveyed to Hildreth and others, who held under him, the lands in controversy, or some part thereof, between this defendant and the said complainants; and if such sale has been made, this defendant claims the benefit thereof. Your respondent denies, as in his former answer, and prays to be hence dismissed, with a judgment for his costs, so unjustly expended, &c.

JOHN McINTIRE.

FRANKLIN COUNTY, sct. *8th December*, 1821.

John McIntire this day made oath before me, a justice of the peace in and for said county, that the statements contained in this answer, so far as relates from his own knowledge, are true, and so far as relates from information he believes to be true.

O. G. WAGGONER, *J. P.*

This defendant saith, that the survey, and register thereof, were made illegally and contrary to law, and that the title become forfeited for the want of being surveyed and registered within the time prescribed by law, and that the patent hath issued thereon fraudulently and surreptitiously: and this defendant states, that the patents under which he claims is more than thirty years old.

And afterwards, to wit, at the November term of the court aforesaid, and year aforesaid, came the parties aforesaid, by their attorneys, and submitted this cause to the court for a decree herein.

And at a subsequent day of the term aforesaid, and year last mentioned, came the parties aforesaid by their counsel, and the defendants' exceptions to the depositions and survey taken since May, 1821, came on to be heard; and the court being advised, do order that the same be overruled, and leave is given the defendants to amend the survey returned herein. It is therefore ordered that the surveyor of county do go on the land in controversy between the parties on the day of next, if fair, if not, on the next fair day, and then and there survey and lay off the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return one fair plat and certificate thereof into the clerk's office of this court, thirty days at least be-

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fore the day of trial, and the marshal or one of his deputies is directed to attend the said survey, to remove force, should any be offered; and on motion of the defendants, this cause is continued until the next term, for and at their costs, but upon the express condition that the defendants go into trial at the next term.

And afterwards, to wit, at the May term of the court aforesaid, and year one thousand eight hundred and twenty-three, came the defendants by their attorney, and filed the following exceptions herein, to wit;

The defendants aforesaid except to the connected plat last made out by Zachariah Eastin, purporting to be an extract from the records in his office, as incompetent evidence in this cause. They also except to the deposition of said Eastin, to confer any legal character to the said extract, or for any other legal purpose.

J. TALBOTT, *for defendants.*

And the arguments being heard upon said exceptions, and the court being advised, do order that the same be overruled; whereupon this cause came on to be heard as to the defendants, John, Jacob, and Isaac McIntire, upon the bill, answers, and exhibits; but the court not being sufficiently advised of and concerning the premises, took time, &c.

And at a subsequent day of the term and year last mentioned, came on to be heard the motion of the defendants to file additional depositions herein, and was fully argued; but the court not being advised thereof, took time, &c.

And at a subsequent day of the term and year last mentioned, it is ordered that the complainants' bill as to the defendants John, Jacob, and Isaac McIntire, be dismissed pro forma.

And on motion of the complainants aforesaid by their counsel, an appeal is granted them to the Supreme Court of the United States, upon their entering into bond in the clerk's office of this court, with John Curry their security, in the penalty of one thousand dollars, conditioned according to law; and that the defendants, John, Jacob, and Isaac McIntire, recover of the complainants their costs herein expended. And at a subsequent day of the term and year last mentioned, ordered that the order dismissing the complainants' bill in this case pro forma at the present term, be set aside: whereupon, it is now ordered that the complainants' bill be dismissed pro forma: and on motion of the complainants aforesaid, by their counsel, an appeal is granted them to the Supreme Court of the United States, upon their entering into bond in the clerk's office of this court, with John Curry their security, in the penalty of one thousand dollars, conditioned according to law; and that the defendants recover of the complainants their costs herein expended: and the defendants, by their counsel, filed the following bill of exceptions herein, to wit:

Be it remembered, that this cause was set for hearing on the first day of this term, the 5th day of May, 1823, and was, at the instance of the defendants' counsel, postponed, and not heard until the 9th day of May, 1823; when it was heard, it was suggested by the counsel for the defendants that Thomas W. Shepherd, who, during the pendency of this suit, had purchased out the interest of the defendant, and who, at the last term of this court, upon making that fact appear, and on his affidavit then filed, procured a continuance on the terms mentioned in the order of that term, had taken some depositions and had a survey made under the order of the last term; and that said Shepherd had been instructed to hasten the filing of said

papers, and had been expected to have been here with them before that day, and that he supposed some casualty had prevented his coming forward with them. The said counsel thereupon requested the court to hold up the papers, and postpone the forming an opinion until a reasonable time should be allowed for said Shepherd to produce said depositions, &c. The counsel for the complainant stated, that, having postponed the cause upon those suggestions that long, he could not consent to postpone it any longer; but that the court had the power, after hearing, to let in the depositions, if they appeared to have been regularly taken, and the delay in filing them properly accounted for. The judge then said that he would withhold delivering an opinion until there were time to hear from said Shepherd. The cause was then argued on said 9th day of May, 1823. On the 14th day of May, 1823, said Shepherd produced and filed a paper purporting to be an amended survey, made 28th February, 1823; the depositions of Josiah McDowell, Samuel Black, and James Sconce, purporting to have been taken on the 5th day of March, 1823; the deposition of William Clinkinbeard, purporting to have been taken on the 7th day of May, 1823, and the deposition of John McIntire, a defendant in the cause, purporting to have been taken on the 9th day of May, 1823. The said Shepherd also filed his own affidavit, made on the said 14th day of May, 1823. The complainants filed exceptions to said surveyor's report and depositions. The defendants then moved the court to receive said depositions and surveyor's report; on the hearing of which motion, said affidavit of said Shepherd was read, also the said exceptions to the surveyor's report and depositions, also the envelope in which said depositions were enclosed when handed to the clerk, which envelope purported to have the following postmark on it: "Millersburg, May the 5th, 1823, P. D." The statement of James W. Hawkins, postmaster of this place, was also read, to have the same effect as if sworn to. It was a fact known to the judge who resided, and relied on, that said Shepherd was in this town attending as a witness on the trial of Arnold, referred to in Shepherd's affidavit, several days of the week preceding the commencement of this court, and that the mail from Millersburg to this place, a distance of about fifty miles, had, from the 1st to the 14th of May, 1823, come regularly three times a week, travelling it in one day. It was also contended by the complainants in this cause, that the whole of the depositions and certificates, and directions and endorsements on the envelope, purporting to be a post mark, were apparent from inspection and comparison with the notices and affidavits filed by said Shepherd, in the handwriting of said T. W. Shepherd.

The court sustained the objections of the complainants' counsel, and refused to permit said surveyor's report and depositions to be used in evidence in this cause. The several papers herein mentioned, together with two notices filed with said papers, are referred to and made part hereof. To the opinion of the court, in refusing to receive said survey and depositions, or either of them, as evidence in the cause, the defendants except, and tender this their bill of exceptions to be signed and enrolled. [SEAL.]

The honorable Thomas Todd, who presided on the hearing of this cause, having been compelled to attend the circuit court holden in the western district of Tennessee before this bill of exceptions was prepared, the undersigned counsel for the parties certify it to be correct, and consent to its being entered of record, to have the same effect as a bill of exceptions regularly signed by the judge.

M. D. HARDIN, *for complainants.*
GEO. M. BIBB, *for defendants*

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Papers referred to in the foregoing bill of exceptions.

BOURBON COUNTY, sct.—In pursuance of an order of the honorable circuit court of the United States of America, seventh circuit and district of Kentucky, directed to the surveyor of the county aforesaid, to amend the survey heretofore returned in the case of Miller's heirs complainants, and the devisees of Nicholas McIntire, deceased, and others, defendants, in a certain suit pending in said court, I, William Padgett, D. S. B. C., by order of the defendants, on the 28th day of February, 1823, according to notice, proceeded to the beginning corner of the survey of 1,000 acres, made on the day of January, 1783, in the name of Nicholas McIntire, at where a large black ash stood between two marked sugar-tree stumps at (A), and corner to a survey of 1,000 acres, made in the name of Colonel Thomas Swearingen, shown by Samuel Black, and running thence south 46° 30" E. 20 poles to hickory and sugar-tree stumps at (B), shown on an original corner of the survey of said McIntire; thence south 43° 30' W. 525 poles, on a marked line, to a large fallen walnut at (C), shown as another corner of said survey; thence N. 46° 30' 360 poles, on a plain marked line, to two marked sugar trees as at (D), shown by Josiah McDowell and Mr. Bran, being a corner of said McIntire's and Lafortee's; thence N. 43° 30' E. 340 poles to a plain marked line, to intersect said Swearingen's line at (E), as shown by said Samuel Black and Foster Collins; thence S. 41° 30' E. with Swearingen's line, 326 poles, on a marked line, to the first beginning, including a spring at (F), which was a stump of a hickory tree near said spring, on which had been marked the letter (Y), as called for in McIntire's entry, shown by Samuel Black and Foster Collins; 1, 2, 3, 4, represents the survey of Miller's heirs of 1,687 acres; 1, 5, E, A, B, represents that part of McIntire's survey covered by Miller's survey:* all laid down by direction of the defendants in the suit aforesaid.

WILLIAM PADGETT, *D. S. B. C.*

The deposition of Josiah McDowell, of lawful age, taken at the house of Foster Collins, Esq., Bourbon county, State of Kentucky, on the 5th day of March, 1823, according to notice, to be read in evidence on the hearing of a suit in chancery, now depending in the circuit court of the United States held in Frankfort for the district of Kentucky, wherein the heirs and devisees of Henry Miller, deceased, and the devisees of Nicholas McIntire, deceased, and others, are defendants, in chancery; who, being first sworn, deposeth and saith, that he raised a crop of corn on the place where he now lives in the summer 1786, and moved to his place in 1787, and has resided there ever since.

Question by defendant Shepherd. In what year, and at what time of the year, was Nicholas McIntire's claim taken possession of on Stoner's and Hinkston's forks of Licking, now Bourbon county?

The possession of Nicholas McIntire's claim was taken in the year 1788, about the last of March or first of April. I lived at that time and still live about a mile from the land, and perfectly recollect the time that said possession was taken: the said possession was taken time enough to clear land and raise a crop of corn that year.

Question by same. Has not their possession been uninterrupted under said claim ever since, until the present time?

Answer. It has, though not entirely, by the first settlers, but by those who claim under them, and their possession up to this time, although some

* For plat see original record.

of them have purchased the land under a defect claim set up by the heirs of H. Miller, deceased.

By same. Had Miller's heirs, at the time they sold the land, any title by patent from the Commonwealth to the land they sold to those tenants in possession under the claim of McIntire's?

Answer. I have understood by report that no patent had issued to the said Henry Miller or his heirs at the time the said heirs sold the land aforesaid to McIntire's tenants, but I do not know of my own knowledge.

By same. At what time did the heirs of said Henry Miller sell the land held by McIntire to the said tenants?

Answer. It was in the fall of the year 1817.

JOSIAH McDOWELL.

Also, the deposition of Samuel Black, of lawful age, taken at the same time and place, and for the same purpose.

Question by defendants. At what time did you become acquainted with the possession of McIntire's claim of one thousand acres on the waters of Hinkston and Stoner's forks of Licking, now Bourbon county?

Answer. In the year 1794, when I moved to where I now live, adjoining the claim of said McIntire.

By same. Have you not been acquainted with the said McIntire's claim from the time above spoken of up to the present time?

Answer. I have been well acquainted with the survey of said McIntire up to this time: I have shown the corners thereof several times.

By same. Have you not heard James Wright, who was one of the first settlers upon said claim under said McIntire, say he moved on the said claim in the year 1788?

Answer. I have heard Alexander Wright, who also settled on the same claim, say that he, James, took possession in the year 1788 or 1789.

By same. Has not that possession continued uninterrupted up to this time, and the claim of said McIntire?

Answer. The actual possession of those claiming under McIntire's title or claim by those who first took it, is those claiming under them by purchase subsequently made up to this time. It is true that some of those holding under McIntire's claim did purchase another claim set up by the heirs of Henry Miller, deceased, some time in the fall of 1817, but that was only a part of McIntire's claim, and that not covered by said Miller's heirs' claim. The possession is still held under the original possession of said McIntire's claim uninterruptedly.

SAMUEL BLACK.

Also, the deposition of James Sconce, of lawful age, taken at the same time and place, and for the same purpose.

Question by complainants. At what time did you settle where you now live?

Answer. In the year 1786, in the month of March of that year.

By same. How near was where you then settled and now live to the claim of Nicholas McIntire of 1,000 acres on the waters of Stoner's and Hinkston's forks of Licking?

Answer. Not more than one mile, or perhaps less, on a straight line, to the nearest corner of said claim.

By same. At what time was the possession taken of that claim of McIntire by those holding under said claim?

87.

Answer. The possession of said McIntire's claim was actually taken by said McIntire's tenants in the month of March, in the year 1788, or perhaps '89; but my strongest impression is, and I think that I am pretty clear, that it was in the year 1788.

By same. Has or has not the actual possession of said McIntire, thus taken, been held and continued up to this time without interruption?

Answer. The possession of McIntire's claim, taken at the time above stated, has not been interrupted by any person up to this time, but has been held by those who first took said possession, or those claiming under them by subsequent purchase under the claim aforesaid of McIntire, without any change. I have been informed that some of the tenants under McIntire's claim did purchase a claim set up by Henry Miller's heirs some five years back, but the actual possession of McIntire has never been changed up to this time.

JAMES SCONCE.

BOURBON COUNTY, sct.

I do hereby certify, that the foregoing depositions of Josiah McDowell, Samuel Black, and James Sconce, were duly taken, sworn, and subscribed, before me, one of the acting justices of the peace in and for the county aforesaid, at the time and place mentioned in the caption of the same.

Given under my hand and seal, this 5th day of March, 1823.

FOSTER COLLINS.

The deposition of Isaac Clinkinbeard, taken before me, one of the Commonwealth's justices of the peace in and for the State of Kentucky, and county of Bourbon, being by virtue of my commission one of the judges of the county court in and for the county aforesaid, duly commissioned and acting as such, on this 6th day of May, 1823, agreeably to notice, and pursuance of adjournment, at the house of said Isaac Clinkinbeard, in the said county of Bourbon, to be read as evidence in a certain suit depending in the court of the United States in and for the seventh circuit and district of Kentucky, holden in Frankfort, wherein the heirs of Henry Miller, deceased, are complainants, and the devisees of Nicholas McIntire, and others, are defendants, deposeth and saith, that he is upwards of sixty-three years of age, and so infirm as not to be able to attend the said court at Frankfort; he further saith, that he came to the then district of Kentucky in the year 1779, and settled at Stroud's station, and resided there and in the vicinity thereof about eight years, and has resided in the county ever since; he further states, that he has heard the spring called McIntire's spring and Swearingen's spring frequently spoken of at Stroud's station, by John McIntire, Colonel Thomas Swearingen, John Constant, as early as the year 1780; he also states, that he could have easily found said spring, or any of the hunters, and those acquainted in the section of country where the said springs were situated, by information from either of the persons above named, as early as the year 1780 up to 1786. He further states, that, in the year 1783, this deponent, in company with Colonel Thomas Swearingen, John McIntire, and William Clinkinbeard, went from Stroud's station, and made a survey for said Swearingen of 1,000 acres, which included said Swearingen's spring, at which, on a tree near said spring, was some letters, but the kind this deponent does not recollect, but thinks the figures 1779 were marked on said tree with a mill marking iron. I then, after making the abovementioned survey, they then commenced and made a survey of 1,000 acres for Nicholas

McIntire, adjoining the one made for Swearingen, and on the southwest of the same, which included small spring on the south side of, and nearly on the top of the dividing ridge between the waters of Stoner and Hinkston, called McIntire's spring, at which spring there was a tree marked with letter Y on it. He further states, the two springs above spoken of is near the top of the dividing ridge between Hinkston and Stoner. The spring called Swearingen's spring run into Hinkston's fork, and was a large one; and McIntire's spring run to the west of said ridge, and discharged itself into Stoner's fork of Licking. He states that the situation of above springs was such that any person who was in the habit of, or understood any thing about travelling, could have found them from such directions as could have been got at Stroud's station, from said Swearingen, McIntire, Constant; and he states that the said Swearingen's spring was further from the top of the ridge, and much larger than McIntire's spring; and the said springs, called by the above names, were situated between McMillan's trace that led to the lower salt spring, and the salt spring trace that led from Bryant's station to the said Lower Blue licks or salt spring, and were the only two springs between those two traces that had marked trees at them, that he knew of, near the dividing ridge, or that had acquired any notoriety. He further states, that, if any person had come to the said McIntire, Swearingen, or Constant, who wished to have made an entry to adjoin either McIntire or Swearingen, who was acquainted with being in the woods, whether they were surveyors or not, as early as 1780 or 1781, they could have been directed by them with certainty to have found either of said springs. He further states, that the said trace above spoken of, where the crossed the dividing ridge aforesaid, was about three miles apart. He further states, that, at the time the survey of said McIntire was made, which was in the year 1783, the general opinion among the hunters at Strode's station was, that it was between five and six miles from Stoner's spring to McIntire's spring, to the top of the dividing ridge between Stoner and Hinkston. And further saith not.

ISAAC CLINKINBEARD.

I, Elias Darnall, one of the justices of the peace in and for the county of Bourbon, and State of Kentucky, duly commissioned, sworn, and acting as such, and by virtue of my said commission being one of the judges of the county court in and for the county aforesaid, do certify, that, at the request of the defendants in said suit, caused the said deponent to come before me at the time stated in the caption of said deposition, because the said deponent was too infirm to attend said court. The said witness was by me carefully examined, and sworn to, and then subscribed by him, in my presence; and that I am not of counsel for either of the parties, or interested in the event of the cause. All which I do certify to said court.

Given under my hand and seal, this 6th day of May, 1823.

ELIAS DARNALL, *J. P. B. C.*

The deposition of Major John McIntire, aged about sixty-two years, taken before me, Henry S. Powers, the undersigned, one of the justices of the peace in and for the Commonwealth of Kentucky, and county of Fleming, being, by virtue of my commission, one of the judges of the county court in and for the county aforesaid, duly commissioned, sworn, and acting as such, taken this 9th day of May, in the year 1823, at the house of the said McIntire, in the county aforesaid, according to notice to the adverse party, as evidence on the hearing of a certain suit depending in the Court of the United States in and for the

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holden in Frankfort, wherein the heirs of Henry Miller, deceased, are complainants, and the devisees of Nicholas McIntire, deceased, and others, are defendants. The deponent, being duly sworn, saith, that he came to then district of Kentucky in the fall of the year 1779, and resided at Strode's station; and that, April, 1780, he, this deponent, in company with Colonel Thomas Swearingen and John Constant, came on down towards the lower salt lick, and when on that route said Swearingen marked a tree at a large spring, on the north side of the dividing ridge between Stoner and Hinkston's fork of Licking, with the letters T S, on which tree there had been some other letters previously made by some other person or persons. He further states, the said spring was, at the time above stated, to wit, in the spring of 1780, by said company, called Swearingen's spring; and that it was a large and noted spring, at which the hunters from Strode's station frequently camped, and was generally known by the name of Swearingen's spring at Strode's station, by the hunters and others, from 1780 up to 1786 and 1787. He further states, that, at the same time and on the same route, he, this deponent, marked a hickory tree at smaller spring, about half or three quarters of a mile southwest of the said Swearingen's spring, on the southwest side of the dividing ridge between Stoner and Hinkston's forks of Licking, with the letter Y—the waters of which said spring discharges itself into Stoner; and that the said spring was then called McIntire's spring. He states he made an entry of 1,000 acres of land, to include said spring, in the name of Nicholas McIntire. He further states, that said springs aforesaid, to wit, Swearingen's spring and McIntire's spring, from the spring of 1780 up to 1786, were well known by this deponent, said Swearingen, Constant, and the hunters of Strode's station, from the spring or summer of 1780 up to 1786. He further states, that, if any person, with entry of Nicholas McIntire, as amended, had applied to him for information where to find the spot on which to make the survey on said entry, or to locate land adjoining thereto, he could have directed him to the aforesaid spring, called McIntire's spring, with such certainty that they could have found it with ease and without difficulty. He states that not only him, but the hunters of Strode's station, and all those acquainted in that section of country, could have done the same. He further states, that the two springs called and known by the name of Swearingen and McIntire's springs, was situated near the top of the dividing ridge between Hinkston and Stoner's forks of Licking—Swearingen's spring on the north side, of the waters of which run into Hinkston, and McIntire's spring on the south side, and run into Stoner; and that the said springs were situated between McMillan's trace leading to the lower salt lick, and the salt spring trace leading from Bryant's station to the said lower salt spring, which two traces, where they crossed the aforesaid dividing ridge, were about three miles apart; and that he was well acquainted with the country from Strode's station and Boonsborough to the lower salt lick; and that the two springs called and known by the name of McIntire's spring and Swearingen's spring were the only two springs that had any marked trees at or near them, that this deponent knows of, between the aforesaid traces, and near the top of the dividing ridge, as that had acquired any notoriety. He further states, if any person had put the entry of Nicholas McIntire of 1,000 acres, made 19th of May, 1780, and amended December 9th and 14th, 1782, into his hands, for the purpose of having the survey made, he would have had no hesitation in coming to the spring called McIntire's spring, between Hinkston and Stoner, near the dividing ridge between

said stands. He further states, that the hunters and others at Strode's station, who was acquainted with the section of country from said station, could, with certainty, have directed the holders of the aforesaid entry where to have gone to make the survey on said entry. He further states, that the distance from Stoner's spring to the dividing ridge between Stoner and Hinkston, and the two springs above spoken of, was generally computed at between 5 and 6 miles by the people of Strode's station. He further states, that the springs of McIntire and Swearingen, above stated, was generally and notoriously known from and before the date of the amendments made in McIntire's entry, viz: from 1782 up to 1786, by the people at Strode's station and Boonsborough, who had any knowledge of the country from those places to the lower salt licks.

JOHN McINTIRE.

I, Henry S. Powers, one of the justices of the peace in and for the county of Fleming, duly commissioned, sworn, and acting as such, and by virtue of my said commission being one of the judges of the county court in and for the county aforesaid, do certify, that, at the request of the defendants, I caused the deponent in the foregoing deposition to come before me at the time and place stated in the caption of the same, according to notice; and the said witness was by me carefully examined, and then and there sworn to and subscribed the same in my presence; and that I am not counsel or attorney to either of the parties, or interested in the event of the cause. All which I do certify to said court.

Given under my hand, this 9th day of May, 1823.

HENRY S. POWERS.

In the suit, Miller's heirs *vs.* McIntire's devisees and others, in the honorable court, the affidavit of Thomas W. Shepherd. This affiant states that he is, and for a long time has been much afflicted with a violent and stubborn affection of rheumatic pains, which frequently renders him incapable of riding on horseback scarcely any distance. He states, that, from that cause, and the ill health and helpless situation of his family, together with the intense cold weather and high waters during the last winter and spring, and since the last term of this honorable court, has put it out of his power to atttend to the necessary preparation of the above cause, so as to be ready at the commencement of the present term of said court, and particularly to the taking of some of the depositions intended to be used in his defence on the trial, as some of the witnesses was at a considerable distance from his residence. He states that almost the only time in which it was in his power to attend to the taking of the depositions on which he in part relied, exempt from the causes above stated, he was compelled to attend the honorable court of appeals, as a witness on behalf of the Commonwealth in the case of said Commonwealth *vs.* Thomas Arnold, clerk of the Bourbon circuit court; and in consequence of his being detained near a week, and not having it in his power, for the above assigned reasons, to take said depositions since the commencement of the present term of this court, he states, that, on the 5th of May, he put some of the depositions he had before that time taken in the post office, for the purpose of having them sent on; but, on being informed by his counsel that they had not arrived, he, on the 11th instant, took them out of the post office, and has now brought them in with him. He prays, therefore, that, inasmuch as the causes above stated, over which he could have no possible control, has prevented him from filing his deposi-

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tions sooner, that this honorable court will receive the depositions now presented, and give them such weight as they may be entitled to.

And he will ever pray, &c.

THOS. W. SHEPHERD.

FRANKLIN COUNTY, sct.

The within named Thomas W. Shepherd this day made oath before me, a justice of the peace in and for said county, to the truth of the statements contained in the within affidavit. Given under my hand, this 14th May, 1823.

O. G. WAGGENER, *J. P.*

Exceptions.

The complainants except to the depositions and surveyor's reports filed on the part of the defendants since the hearing, for the following reasons: The depositions and surveyor's report were not filed before the hearing, nor any sufficient cause assigned for their not being filed. The depositions purporting to have been taken in March have been fraudulently held up. The depositions of Clinkinbeard and McIntire were taken without any authority, and one of them after the hearing. There was no sufficient notice given of the time and place of taking the depositions. The said depositions are not taken in pursuance of law or the rules of court; and the deponent McIntire is a party in this suit, and in interest. There was no notice given of the time and place of making the survey.

M. D. HARDIN, *for comp'ts.*

FRANKFORT, *May* 17, 1823.

The undersigned being called upon to examine the words "Millersburg, May the 5th, 1823," p^{d}, written upon the accompanying pieee of paper, (and purporting to have been written by the postmaster at Millersburg,) and to state his opinion whether the same was written by him, can only say that he is not sufficiently acquainted with the handwriting of the postmaster at Millersburg to determine with certainty; he is impressed, however, that the postmark is not genuine, for the following reasons: 1st, postmasters are not required to write or stamp the year on letters: it is, therefore, seldom or never done. The year 1823 appears on the above alluded to paper. They are specially directed and instructed to write the word "paid" in *full* upon letters, which is not done in this instance: and 3dly, they are instructed to write or stamp the amount of postage on all letters, whether paid or otherwise, which is not done on this paper. It may possibly be necessary further to remark, that, by a reference to the postbills from Millersburg to this office, they are filled up in a handwriting different from that on the accompanying paper. This, however, may be owing to the employment of a deputy or deputies in the office at that place.

JAMES W. HAWKINS.

SAMUEL MILLER, &c., *complainants,*
against
LABAN SHIPP, &c., *defendants.*
} *In chancery.*

*Explanation to the plat.**

A B C D E, heirs of Henry Miller, deceased, 1,687 acres, as surveyed
L G M N O, John McIntire's 500 acres, do.
F G H I K, Nicholas McIntire's 1,000 acres, do.
P N M H ¶ R S, Benjamin Harris's 1,000 acres, do.
E T U Z, Thomas Swearingen's 1,000 acres, treasury warrant, do.
a b c d e f g h i k l m n x y, John Martin's 2,000 acres, do.
1 2 3 4, Archibald McKinney's pre-emption of 1,000 acres, do.
5 6 7 8, James Parberry, assignee of Menoah Singleton's 1,000 acres, do pre-emption.
9 10 11 12 13 14 15 16 9, Prettyman Merry's 1,890 acres, do.
11 12 5 17 18 19, Cave Johnson's 800 acres, do.
20 21 22 23 John Taylor and Reuben Proctor, assignee, 3,000 acres, do.
20 24 25 23, Reuben Proctor, assignee of Abraham Salley, 1,000 acres, do.
24 25 26 27, James Howard and Charles Morgan, 900 acres, do.

G 28 29 K G, John McIntire's 500 acres, being one equal moiety of Nicholas McIntire's 1,000 acres, as conveyed to him by Isaac McIntire and wife, by deed dated the 4th day of August, 1808.

H I 29 28, represents the remaining moiety of said 1,000 acres, each moiety containing acres.

30 31 32 33, William Wright's 2,000 acres, part of Thomas Swearingen's 1,000 acres on M. warrant.

Z 34 35 30, William Black's 281 acres, part of Swearingen's 1,000 acres, by deed dated 1st day of August, 1808.

F 34 35 36, Samuel Black's 281 acres, do. do do.

37 20 24 38 39 E 37, Victor Larimer's 220 acres, part of Reuben Proctor's 1,000 acres, and also part of Parmenus Briscoe's 1,000 acres, by deed dated the 17th day of June, 1799.

G 5 7 4 3 K, represents the interference of Nicholas McIntire's 1,000 acres with Miller's claim, containing 576¾ acres; 28 29 K G, John McIntire's moiety of Nicholas McIntire's 1,000 acres, containing 586¼ acres.

H I 29 28, represents the remaining moiety of said 1,000 acres, containing 586¼ acres.

G 28 44 K G, represents the interference of John McIntire's moiety with Miller's claim, containing 478⅞ acres.

57 28 44, represents the interference of the remaining moiety with said Miller's claim, containing 97⅛ acres.

NOTE. The division line 28 29, cutting Nicholas McIntire's 1,000 acres into two equal parts, was run on the ground from information received that John McIntire had appropriated the northeast end of the claim. The moiety conveyed by Isaac McIntire and wife to John McIntire being an undivided one, it was found impracticable to comply with the decree without first making the division.

G N M 56 55 53 58, represents the interference of John McIntire's 500 acres with Miller's claim, containing 423 acres.

N M 57 B 56 N, do. Benjamin Harris's 1,000 acres, do., containing 50 acres.

*See original record for plat.

F 50 D, ° ° by the points C Z, do., Thomas Swearingen's 1,000 acres, M. W., do., containing 516½ acres.

F 58 50, do., Thomas Swearingen's 1,000 acres, treasury warrant, containing 73¾ acres and 16 poles.

54 B C D 52, do., John Martin's 2,000 acres, do., containing 1,671½ acres.

3 57 B 59, do., Archibald McKinney's pre-emption of 1,000 acres, containing 3¾ acres and 19 poles.

5 60 61, do., James Parberry, assignee of Menoah Singleton's pre-emption of 1,000 acres, contains 5½ acres and 30 poles.

11 45 C 46, do., Prettyman Merry's 1,890 acres, containing 135½ acres and 29 poles.

46 D 51 17 5 60 45 11 46, do., Cave Johnson's 800 acres, containing 826 acres.

30 42 C 41, is the interference of John Taylor and Reuben Proctor's 3,000 acres within Miller's claim, containing 163¾ acres.

20 41 D 52 24, is the interference of Reuben Proctor's 1,000 acres with said Miller's claim, containing 499¾ acres.

24 52 58, the interference of James Howard's 900 acres, containing 20½ acres.

47 D, 48, 33, the interference of William Wright's 200 acres, part of Thomas Swearingen's 1,000 acres, M. W., with Miller's claim, containing 58 acres.

° °, near the corners C Z, and 47 35 34, the interference of William Black's 281 acres with Miller's claim, containing 189 acres.

F 34 35 49 50 F, do. of Samuel Black's 281 acres, containing 269¾ acres.

37 20 24 52 50 F 37, do. of Victor Larimer's 220 acres, do., containing 101 acres.

40, the log pond.

73, Harrod's lick, as shown to me by Joshua Stamper, William Clinkinbeard, and Moses Thomas.

74, a point 2 miles north from Harrod's lick.

72, Chapman Austin's 4,000 acres, as surveyed.

74 75 D 76 77, do., as directed to be surveyed by the complainants.

A E 75 78, Israel Christian's 200 acres, do.

70 70, a large buffalo road or trace leading from the head of Green creek to the Lower Blue licks, as shown to me by Isaac Clinkinbeard and Thomas Kennedy, the 14th and 15th of February, 1811, and commonly called McMillan's trace.

71, the point where said trace crosses the dividing ridge between Hinkston and Stoner.

73 71, a straight line drawn from Harrod's lick to said point or crossing of the ridge, and bears north 23½ west, two and three fourths miles and 70 poles.

The boundary of Henry Miller's claim as it was actually surveyed, and as decreed in this cause, is precisely the same; if the boundary of any particular interference is wanted, the records of this office can furnish it. The preceding plats and notes of explanation is a fair and correct extract from the records of my office, and represent the facts as they really exist. Given under my hand, this 15th day of October, 1821.

Z. EASTIN, *S. B. C.*

The deposition of Zachariah Eastin, taken at the house of Henry Timberlake, in the town of Paris, pursuant to notice, to be read as evidence in a suit in chancery now depending in the seventh United States' circuit court

for the district of Kentucky, wherein Samuel Miller and others, heirs of Henry Miller, deceased, are complainants, against Cave Johnson and others, defendants. This deponent, being of lawful age, and first sworn, saith, that the foregoing plat and explanation contains a true and correct statement of facts, so far as he knows or believes; that it is a true extract from the records in his office; and that the objects therein reported were shewn to him by the witnesses named. And further saith not.

Z. EASTIN.

STATE OF KENTUCKY, *Bourbon county*, sct.

The foregoing deposition of Zachariah Eastin was taken, sworn, and subscribed to, before us, two of the acting justices of the peace for said county, at the house of Henry Timberlake, in Paris, Kentucky, agreeable to notice, on the 15th day of October, 1821.

Given under our hands, this 15th day of October, 1821.

HENRY TIMBERLAKE,
BOON INGELS.

The deposition of Thomas Kennedy, taken at the house of Henry Timberlake, to be read as evidence in a suit in chancery depending in the court of the United States for the Kentucky district, wherein Miller's heirs are complainants, and Cave Johnson and others are defendants. This deponent, being of lawful age, and duly sworn, deposeth and saith, that he first came to Kentucky in 1776, and made some improvements; that he returned to Virginia, and back to Kentucky in 1779; that he was accustomed to hunt and travel through the country between Hinkston and Stoner in 1779 and 1780; that in 1779 he resided at Strode's station; that a trace passed by Harrod's lick from Boonsborough to the Lower Blue licks; that the place shewn by him to Z. Eastin, surveyor of Bourbon county, as Harrod's lick, was notorious by that name to the people and hunters in the neighborhood of it in 1779 and 1780, and previous to January 1, 1780; that said Harrod's lick was notorious in 1779 and 1780 in Strode's station and the adjacent stations, and a person could be directed from those stations without much difficulty in 1779 to Harrod's lick; that the creeks Hinkston and Stoner were notorious by those names previous to 1780, by the people in that section of country and said stations; that there is no other buffalo trace, of any note, than the one shewn the surveyor, in two miles of Harrod's lick.

Question by defendant. The creek now called Stoner, have you ever known or heard it called by another name, or Gist's creek?

Answer. I have never known it by any other name than Stoner's creek, although latterly I have heard some say it was called Gist's creek previous to Michael Stoner's settlement on it in the year 1776. And further he saith not.

THOMAS KENNEDY.

Also the deposition of Isaac Clinkinbeard, taken at the same time and place, and for the same purpose. This deponent, being of lawful age, and duly sworn, deposeth and saith, that he came to Kentucky in 1779, and stopped a little while at Boonsborough, and afterwards, in the same year, settled at Strode's station; that, in that year, he heard Harrod's lick, shewn by him to Z. Eastin, surveyor of Bourbon county, talked of in Strode's station, and thinks a person could be directed from Boonsborough or Strode's station in 1779, to find Harrod's lick, for a large buffalo trace passed by it, but this deponent did not see Harrod's lick until summer 1780; from that time he knows it was notorious in its neighborhood, and at the station about it; this deponent states that no buffalo trace of any note passed

58.

within two miles of Harrod's lick, except the one shewn the surveyor, passing by the lick; he states that Hinkston and Stoner were notorious by those names in 1780, at Strode's and other stations, and in that part of the country; he states he has heard that Stoner was called Gist's creek by the first settlers, but was always notorious by the name of Stoner after this deponent became acquainted with it, from the time aforesaid; Stoner was notorious by that name in 1779.

Question by defendant. Have you, or have you not, a knowledge of the creek now called Stoner being known or called at any time by the name of Gist's creek?

Answer. I have no knowledge myself of its being the name of Gist's creek, further than David Williams, Jacob Storm, and Sodusky, told me, in 1785 or 1786, that the first improvers called it Gist's creek. And further saith not.

ISAAC CLINKINBEARD.

Also the deposition of Joshua Stamper, taken at the same time and place, and for the same purpose. That he came to Kentucky in 1779, and stopped a little while at Boonsborough, and afterwards, in the same year, settled at Strode's station; that, in February, 1780, he became acquainted with Harrod's lick, shewn to the surveyor of Bourbon county, and from that time ever since he knows it was notorious by that name to people in the neighborhood and at said stations; he states a very noted trace passed at that time from Boonsborough to the Lower Blue licks, by Harrod's lick, and was well marked with a tomahawk; that, in February, 1780, there were several in his company, some of whom had lived in Boonsborough, and they told him that was Harrod's lick; he thinks that a person in 1779 might be easily directed from Boonsborough to find Harrod's lick; he states, there was no other buffalo road on the dividing ridge between Hinkston and Stoner of any note, that passed in two miles of Harrod's lick, except the one shewn the surveyor, passing by Harrod's lick; he states he became acquainted with Stoner in the fall 1779, and Hinkston in February, 1780; and from these times respectively, they have been notorious by those names in that part of the country and the aforesaid stations. And further saith not.

his
JOSHUA + STAMPER.
mark

Also the deposition of William Clinkinbeard, taken at the same time and place, and for the same purpose. This deponent, being of lawful age, and duly sworn, deposeth and saith, that he came to Kentucky in 1779, and stopped a little while at Boonsborough, and afterwards, in the same year, he settled at Strode's station; that, in the summer of 1780, he became acquainted with Harrod's lick, and from that time ever since he knows it has been notorious by the name of Harrod's lick to people and hunters in that part of the country, and in the stations in that part of the country; he states that a noted buffalo trace passed by Harrod's lick, from Boonsborough to the Lower Blue licks; and he thinks a person might be easily directed from Boonsborough to find said Harrod's lick in 1779; that no other buffalo road passed within two miles, to the best of his knowledge, of Harrod's lick, over the dividing ridge between Hinkston and Stoner, except the one shewn to the surveyor, passing by Harrod's lick; he states that he became acquainted with Stoner in the fall 1779, and Hinkston in the summer

1780; and from those periods respectively they have been notorious by those names to the people and hunters in that part of the country and the neighboring stations. And further saith not.

his
WILLIAM + CLINKINBEARD.
mark

STATE OF KENTUCKY, *Bourbon county*, sct.

The foregoing depositions were taken, sworn, and subscribed to before us, two of the acting justices of the peace for said county, at the house of Henry Timberlake, in Paris, Kentucky, agreeable to notice, on the 15th day of October, 1821.

Given under our hands accordingly, this 15th day of October, 1821.

HENRY TIMBERLAKE,
BOON INGELS.

The deposition of John Curry, taken at the house of Henry Timberlake, in the town of Paris, on the 30th day of March, 1822, to be read as evidence in a suit in chancery, depending in the circuit court of the United States for the district of Kentucky, wherein Samuel Miller and others, heirs of Henry Miller, are complainants, and Jacob McIntire and others are defendants. The deponent, being of lawful age and duly sworn, deposeth and saith, that he was well acquainted with Henry Miller, of Augusta county, Virginia, and with his family, prior to the fall of the year 1793, October, when this deponent came to Kentucky. In the fall of the year 1796, this deponent returned to Virginia, and staid some weeks with the family of said Miller, he having been dead, as this deponent understood from the family, some months. His reputed children were Samuel, James, William, Henry, Rachael, Hannah, and Patey: some of them were infants at the death of their father, and remained so till after the year 1804. Rachael, the oldest of said Miller's daughters then living, was married to John Lewis prior to the year 1793, and this deponent believes continues so, as he has not heard of her death. This deponent further states, that he believes said Henry Miller never visited Kentucky; if he had, this deponent is confident he would have heard or known of it. And further this deponent saith not.

JOHN CURRY.

BOURBON COUNTY, sct.

The foregoing deposition was taken, subscribed, and sworn to before us, two of the justices of the peace for said county, at the house of Henry Timberlake, this 30th day of March, 1822.

HENRY TIMBERLAKE,
BOON INGELS.

Pleas before the Honorable John Boyle, one of the judges of the seventh circuit court of the United States of America, in and for the district of Kentucky, holden at the Capitol in the town of Frankfort, at the May term of said court, in the year one thousand eight hundred and twenty-eight.

Be it remembered, that heretofore, to wit, on the 8th day of May, at the May term of the court aforesaid, in the year of our Lord one thousand eight hundred and twenty-seven, came the defendants, and filed the following mandate from the Supreme Court, to wit:

39.

UNITED STATES OF AMERICA, ss.—*The President of the United States of America to the Honorable the Judges of the circuit court of the United States for the district of Kentucky.*

Whereas lately in the circuit court of the United States for the district of Kentucky, before you or some of you, in a cause wherein Henry Miller's heirs and devisees were complainants against John, Jacob, and Isaac McIntire, defendants, it was ordered that the complainants' bill be dismissed, pro forma, as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States by virtue of an appeal, agreeably to the act of Congress in such case made and provided, fully and at large appears; and whereas, in the term of February, in the year of our Lord one thousand eight hundred and twenty-six, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and was argued by counsel; on consideration whereof, this court is of opinion that the right of the plaintiffs was preserved by the act giving further time to the owners of lands to survey the same, and for returning plats and certificates to the Register's office, passed in the year 1797; and that the survey on which the patent was founded was made in time. This court doth thereupon reverse the decree of the circuit court, dismissing the bill of the plaintiffs, and doth remand the cause to the said circuit court, that further proceedings may be had therein according to equity, and that liberty may be given to the parties to take further testimony.

You, therefore, are hereby commanded that such proceedings be had in said cause as, according to right and justice and the laws of the United States, ought to be had, the said decree or order notwithstanding.

Witness the Honorable John Marshall, Chief Justice of said Supreme Court, the second Monday in January, in the year of our Lord one thousand eight hundred and twenty-seven.

WILLIAM THOMAS CARROLL,
Clerk of the Supreme Court of the United States.

Whereupon, on motion of the defendants, it is ordered that dedimuses be awarded either party to take depositions, and by consent the cause is to remain on the issue docket.

And afterwards, to wit, at the May term of the court aforesaid, in the year of our Lord one thousand eight hundred and twenty-eight, (until which time this cause was continued,) came the parties aforesaid by their counsel, and submitted this cause to the court, but the court not being now sufficiently advised and concerning the same, took time.

And afterwards, to wit, on a subsequent day of the term last aforesaid, on the 28th day of May, in the year of our Lord one thousand eight hundred and twenty-eight, it issuggested to the court that Jonh McIntire has departed this life; whereupon came the complainants by their counsel, and Daniel Mayrs, Esq., counsel for the defendants, filed his affidavit, and moved the court to open the cause; which motion was overruled by the court; and the court being now sufficiently advised of and concerning the premises, delivered in the following opinion, to wit:

"I am of opinion that the defendants have shown an adverse possession of the land in controversy of more than twenty years before the commencement of this suit: and as the complainants have not, either by their allega-

tions or proof, avoided the effect of such adverse possession, that it is, in virtue of the statute of limitations, a bar to their right to maintain their suit: their bill must, therefore, be dismissed with costs."

Decree.

It is, therefore, decreed and ordered that the defendants recover of the complainants their costs herein expended.

The following patent and depositions have been filed in this cause since the said cause was returned from the Supreme Court, to wit:

Patrick Henry, Esq., Governor of the Commonwealth of Virginia, to all to whom these presents shall come, greeting:

Know ye, that, by virtue and in consideration of part of a land office Treasury warrant, No. 11,599, and issued the 25th day of March, 1782, there is granted by the said Commonwealth unto John McIntire, assignee of Alexander Pinland, assignee of John Childress, who was assignee of Edward Dobbins, a certain tract or parcel of land, containing five hundred acres, by survey bearing date the 21st day of February, 1784, lying and being in the county of Fayette, on the dividing ridge between Hinkston and Stoner's fork of Licking, and adjoining Nicholas McIntire's survey of 1,000 acres on the most south side, and bounded as follows, to wit: beginning at a buckeye and hackberry standing in the line of Thomas Swearingen's survey of 1,000 acres; running thence N. 40° W. 232 poles, along said line, to two hickories and two sugar trees, corner to Nicholas McIntire's survey; thence S. 45° W. 398 poles, along said McIntire's line, to a bettywood and white oak standing in said line, and corner to Benjamin Harris's survey of 1,000 acres; thence east 180 poles, along said Harris's line, to two sugar trees; thence S. 220 poles, along Harris's line, to a stake in said line; thence N. 39° E. 408 poles, to the beginning, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said John McIntire, and his heirs for ever.

In witness whereof, the said Patrick Henry, Esq., Governor of the Commonwealth of Virginia, hath hereunto set his hand and caused the lesser seal of the said Commonwealth to be affixed, at Richmond, on the second day of December, in the year of our Lord one thousand seven hundred and eighty-five, and of the Commonwealth the tenth.

P. HENRY.

A copy. Teste, JOHN M. FOSTER, *R. L. O.*
By E. A. Macurdy, Deputy Register.

Interrogatories put to the witnesses called upon to prove the actual adverse possession of twenty years under and by virtue of the claim of Nicholas McIntire, deceased, of 1,000 acres of land in Bourbon county, on the dividing ridge between Hinkston and Stoner's forks of Licking, also the adverse possession of 20 years under and by virtue of the claim of John McIntire for 520 acres, adjoining the aforesaid Nicholas' 1,000 survey, on the southeast side thereof, to be read in evidence on the hearing of the suit in chancery, now pending in the federal circuit court of the United States for the district of Kentucky, held at Frankfort, wherein the devisees of Henry Miller, deceased, are complainants, and John and Jacob McIntire are defendants.

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Interrogatories by defendant's counsel, put to Josias McDowell.

At what time did you first become acquainted with the claim of 1,000 acres between Stoner and Hinkston's fork of Licking, entered, surveyed, and patented in the name of the aforesaid Nicholas McIntire?

Answer. In the year 1786.

2d. How far is it from where you now live from the aforesaid 1,000 acres, patented to the said Nicholas McIntire, and now in controversy?

Answer. It is about one mile from where I now live to the centre of said survey, and I have lived where I now do ever since the year 1786.

3d. From your long residence in this county, and opportunity, have or have you not had it completely in your power to have a perfect knowledge of what time the aforesaid claim of Nicholas McIntire was taken possession of by said Nicholas, or those claiming under him? if so, state at what time said actual possession was taken, and by whom.

Answer. I have had it in my power completely, from my long residence in the neighborhood; the possession was taken in the year of 1788, by William and James Wright, as purchasers from and claiming under said McIntire, Samuel Dillon, and Alexander Wright, also settlers on said claim, as claiming under said McIntire, about the year 1791.

4th. Has or has not the actual possession, by clearing, fencing, and building, under and by virtue of said Nicholas McIntire's claim of 1,000, by him or those claiming under him, been held peaceably, and adversely to the claim of Henry Miller, from the year 1788 or 1789 up to this time?

Answer. It has, though not entirely by the first settlers, but by those claiming under them and their possession up to this time, although some have since purchased the land under a different claim, (that is, some of the former tenants,) set up by the heirs of Henry Miller, deceased, about the year 1817.

5th. Did or did not the said Nicholas McIntire, or those claiming under him, in the name of the whole, in the year 1788 or 1789, actually enter and take the peaceable possession of the said 1,000 acres aforesaid? and have or have not the said Nicholas's vendees held and enjoyed the peaceable possession of the same up to this time, adverse to the claim of said Miller?

Answer. James and John McIntire, the sons of old Nicholas McIntire, took possession of the said 1,000 acres, and sold to the three Wrights, Samuel Dillon, and William Piper; and them, and those claiming under them, have held possession ever since.

6th. Have you or have you not a knowledge of the claim of 520 acres, entered, surveyed, and patented in the name of John McIntire, adjoining the aforesaid claim of 1,000 acres in the name of the said Nicholas McIntire, on the southeast side thereof?

Answer. I have.

7th. Do you or do you not know at what time the actual possession of the aforesaid 520 acres, entered, surveyed, and patented in the name of John McIntire, was taken possession of by him, or those claiming under him? if so, state at what time said possession was so taken, and by whom.

Answer. In the year 1791 or 1792, George Bernaugh took possession of the said 520 acres as purchaser or claimant under the said John McIntire.

8th. Has or has not the actual possession of the aforesaid claim of 520 acres been held and enjoyed by the said John McIntire, or those claiming under or by virtue of his claim, adversely to the claim of said Miller,

more than 20 years before the institution of this suit, which was instituted in June, 1815?

Answer. When Bernaugh failed to pay McIntire for the said land, McIntire sold the same to Thomas Jones, who now has it in possession under said John McIntire's claim.

9th. Has or has not the said John McIntire, or those claiming under him, occupied and held the actual possession of the said 520 acres, entered, surveyed, and patented in the name of the said John McIntire, under and by virtue of the aforesaid claim, adversely to the claim of the said Miller, from the year 1792 or 1793 up to this time?

Answer. Yes, except a few years since the year 1817, it was held by some persons who claimed under Miller, being the same tenants that formerly held under the said McIntire; but, as before stated, it is now held by the said Thomas Jones under the said John McIntire.

10th. Have or have you not any interest, directly or indirectly, in the event of this suit?

Answer. I have not.

JOSIAH McDOWELL.

Also the deposition of David Jamison, taken at the same time and place, and for said purpose.

1st. At what time did you first become acquainted with the claim of 1,000 acres between Stoner's and Hinkston's forks of Licking, in the name of the aforesaid Nicholas McIntire?

Answer. In the year 1789; and in that year I settled, in the month of April, where I now live.

2d. How far is it from where you now live from the said 1,000 acres, patented to the said Nicholas McIntire, and now in controversy?

Answer. About one and a half miles.

3d. From your long residence in this county, and opportunity, have or have you not had it completely in your power to have a perfect knowledge of what time the aforesaid claim of Nicholas McIntire was taken possession of by said Nicholas, or those claiming under him? if so, state at what time said actual possession was taken, and by whom.

Answer. In the year 1789 the Wrights were living on said claim, and claimed under said McIntire.

4th. Has or has not the actual possession, by clearing, fencing, and building, under and by virtue of the said Nicholas McIntire's claim of 1,000 acres, by him or those claiming under him, been held peaceably, and adversely to the claim of Henry Miller, from the year 1788 or 1789 up to this time?

Answer. I have always understood so, and I know of no person holding under any other claim.

5th. Did or did not the said Nicholas McIntire, or those claiming under him, in the name of the whole, in the year 1788 or 1789 actually enter and take the peaceable possession of the said 1,000 acres aforesaid? and have or have not the said Nicholas's vendees held and enjoyed the peaceable possession of the same up to this time, adversely to the claim of said Miller?

Answer. Yes, but there were some of the vendees that for a short time took protection under Miller's claim?

6th. Have or have you not any knowledge of the claim of 520 acres, entered, surveyed, and patented in the name of John McIntire, adjoining the aforesaid claim of 1,000 acres in the name of Nicholas McIntire, on the southeast side thereof?

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Answer. I have.

7th. Do or do you not know at what time the actual possession of the aforesaid 520 acres, entered, surveyed, and patented in the name of John McIntire, was taken possession of by him, or those claiming under him? if so, state what time said possession was taken, and by whom?

Answer. I think in the year 1790, I saw a man settled on said claim, by the name of Redman, who was settled there by Bernaugh, as I understood; and in some short time thereafter, Bernaugh settled on said place, under said claim, in the year 1791 or 1792, having purchased the same from McIntire.

8th. Has or has not the actual possession of the aforesaid claim of 520 acres been held and enjoyed by the said John McIntire, and by those claiming under and by virtue of his claim, adversely to the claim of said Miller, more than twenty years before the institution of this suit, which was instituted in June, 1815?

Answer. Yes, except those that purchased under Miller about the year 1817, as I have understood.

9th. Has or has not the said John McIntire, or those claiming under him, occupied and held the actual possession of the said 520, entered, surveyed, and patented in the name of the said John McIntire, under and by virtue of the aforesaid claim, adversely to the claim of the said Miller, from the year 1792 or 1793 up to this time?

Answer. Yes, except those that purchased under Miller about the year 1817, as I have understood, who were the former tenants of McIntire.

10th. Have you or have you not any interest, directly or indirectly, in the event of this suit?

Answer. I have not.

DAVID JAMISON.

Also the deposition of James Sconce, taken at same time and place, and for same purpose.

Interrogatory 1st. At what time did you first become acquainted with the claim of 1,000 acres between Stoner's and Hinkston's fork of Licking, entered, surveyed, and patented in the name of the aforesaid Nicholas McIntire?

Answer. In the year 1786.

2d. How far was it from where you now live from the aforesaid 1,000 acres, patented to the aforesaid Nicholas McIntire, and now in controversy?

Answer. Not more than one mile, and I have resided where I now live from the year 1786.

3d. From your long residence in this county, and opportunity, have or have you not had it completely in your power to have a perfect knowledge at what time the aforesaid claim of Nicholas McIntire was taken possession of by said Nicholas, or those claiming under him? if so, state at what time said actual possession was taken, and by whom.

Answer. The possession of said McIntire's claim was actually taken possession of by the said McIntire's tenants in the month of March, in the year 1788, or perhaps 1789; but my strongest impression is, and I think I am perfectly clear, that it was in the year 1788.

4th. Has or has not the actual possession, by clearing, fencing, and building, under and by virtue of the said Nicholas McIntire's claim of 1,000 acres, by him or those claiming under him, been held peaceably and adverse-

ly to the claim of Henry Miller, from the year 1788 or 1789 up to this time?

Answer. The possession of said McIntire's claim of 1,000 acres, taken at the time above stated, has not been interrupted by any person up to this time, but has been held by those who first took said possession, or those claiming under them by subsequent purchase under the aforesaid claim of said McIntire, without any change; but I have been informed that some of the tenants under McIntire's claim did purchase a claim set up by Miller's heirs some years back, not long since, but the actual possession of McIntire has never been changed up to this time.

5th. Did or did not the said Nicholas McIntire, or those claiming under him, in the name of the whole, in the year 1788 or 1789, actually enter and take the peaceable possession of the said 1,000 acres aforesaid? and have or have not the said Nicholas's vendees held and enjoyed the peaceable possession of the claim up to this time, adverse to the claim of said Miller?

Answer. They have.

6th. Have or have you not any knowledge of the claim of 520 acres, entered, surveyed, and patented in the name of John McIntire, adjoining the aforesaid claim of 1,000 acres, in the name of the said Nicholas McIntire, on the southeast side thereof?

Answer. I have a knowledge of said claim.

7th. Do or do you not know at what time the actual possession of the aforesaid 520 acres, entered, surveyed, and patented in the name of John McIntire, was taken possession of by him, or those claiming under him? if so, state what time said possession was taken, and by whom.

Answer. In the year 1792, Benaugh took possession of said claim under John McIntire, as he informed me; and McIntire also informed me of the same.

8th. Has or has not the actual possession of the aforesaid claim of 520 acres been held and enjoyed by the said John McIntire, or those claiming under and by virtue of his claim, adversely to the claim of the said Miller, more than 20 years before the institution of this suit, which was in June, 1815?

Answer. I believe it was more than twenty years before the institution of this suit. I am certain that the possession was held under said McIntire's claim from 1792 up to the year 1817.

9th. Has or has not the said John McIntire, or those claiming under him, occupied and held the actual possession of the said 520 acres, entered, surveyed, and patented in the name of the said John McIntire, under and by virtue of the aforesaid claim, adversely to the claim of said Miller, from the year 1792 or 1793 up to this time?

Answer. I believe they have.

10th. Have or have you not interest, directly or indirectly, in the event of this suit?

Answer. I have not.

JAMES SONCE.

Also the deposition of Michael Hornback, taken at the same time and place, and for same purpose.

Interrogatory 1st. At what time did you first become acquainted with the claim of 1,000 acres between Stoner's and Hinkston's fork of Licking, entered, surveyed, and patented in the name of the aforesaid Nicholas McIntire?

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Answer. William and James Wright settled in the year 1788: at that time I did not know what claim they settled under, but have since understood they settled under the claim of the said Nicholas McIntire.

2d. How far is it from where you now live from the aforesaid claim, patented to the said Nicholas McIntire, and now in controversy?

Answer. About a mile and a half.

3d. From your long residence in this county, and opportunity, have or have you not had it completely in your power to have a perfect knowledge at what time the aforesaid claim of Nicholas McIntire was taken possession of by said Nicholas, or those claiming under him? if so, state at what time said actual possession was taken, and by whom.

Answer. William and James Wright settled in 1788, and I have since been informed they settled under said McIntire's claim.

4th. Has or has not the actual possession, by clearing, fencing, and building, under and by virtue of the said Nicholas McIntire's claim of 1,000 acres, by him, or those claiming under him, been held peaceably, and adversely to the claim of Henry Miller, from the year 1788 or 1789 up to this time?

Answer. I do not know exactly. It was held under McIntire until Hildrith purchased of Miller.

5th. Did or did not the said Nicholas McIntire, or those claiming under him, in the name of the whole, in the year 1788 or 1789. actually enter and take the peaceable possession of the 1,000 acres aforesaid? and have or have not the said Nicholas's vendees held and enjoyed the peaceable possession of the same up to this time, adverse to the claim of said Miller?

Answer. They had it in peaceable possession until the said Hildrith purchased of the said Miller, so far as I know.

6th. Have or have you not any knowledge of the claim of 520 acres, entered, surveyed, and patented in the name of John McIntire, on the south-east side thereof?

Answer. I have.

7th. Do you or not know at what time the actual possession of the aforesaid 520 acres, entered, surveyed, and patented in the name of John McIntire, was taken possession of by him, or those claiming under him? if so, state at what time said possession was taken, and by whom.

Answer. Benaugh lived on said claim in the year 1793, under the said McIntire's claim, as I then understood.

8th. Has or has not the actual possession of the aforesaid claim of 520 acres been held and enjoyed by the said John McIntire, or those claiming under and by virtue of his claim, adversely to the claim of the said Miller, more than twenty years before the institution of this suit, which was instituted in June, 1815?

Answer. If Johnson held under McIntire's claim, it has.

9th. Has or has not the said John McIntire, or those claiming under him, occupied and held the actual possession of the said 520 acres, entered, surveyed, and patented in the name of the said John McIntire, under and by virtue of the aforesaid claim, adversely to the claim of said Miller, from the year 1792 or 1793?

Answer. If Johnson claimed or held under McIntire, they have, and the possession has been adverse to Miller.

10th. Have or have you not any interest, direct or indirectly, in the event of this suit?

Answer. No. I have no interest at all in it.

MICHAEL HORNBACK.

Also the deposition of Caleb Hall, taken at the same time and place, and for same purpose.

Interrogatory 1st. At what time did you first become acquainted with the claim of 1,000 acres between Stoner's and Hinkston's fork of Licking, entered, surveyed, and patented in the name of the aforesaid Nicholas McIntire?

Answer. In the year 1790.

2d. How far is it from where you now live from the aforesaid 1,000 acres, patented to the said Nicholas, and now in controversy?

Answer. About four miles.

3d. From your long residence in this county, and opportunity, have or have you not had it completely in your power to have a perfect knowledge of what time the aforesaid claim of Nicholas McIntire was taken possession of by the said Nicholas, or those claiming under him? if so, state at what time said actual possession was so taken, and by whom.

Answer. In the year 1790, I saw two of the Wrights living on said claim, and, as I then understood, they were living under McIntire's claim.

4th. Has or has not the actual possession, by clearing, fencing, and building, under and by virtue of the said Nicholas McIntire's claim of 1,000 acres, by him or those claiming under him, been held peaceably, and adversely to the claim of Henry Miller, from the year 1788 or 1789 up to this time?

Answer. From the year 1790 it has, until the purchase from Miller.

5th. Did or did not the said Nicholas McIntire, or those claiming under him, in the name of the whole, in the year 1788 or 1789, actually enter and take the peaceable possession of the said 1,000 acres aforesaid? and have or have not the said Nicholas's vendees held and enjoyed the peaceable possession of the same up to this time, adverse to the claim of the said Miller?

Answer. They have from the year 1790, up to the time, I was informed, the Hildrith's purchased of Miller.

6th. Have or have you not any knowledge of the claim of 520 acres, entered, surveyed, and patented in the name of John McIntire, adjoining the aforesaid claim of the said Nicholas, on the southeast side thereof?

Answer. I knew of McIntire's claim from information in the year 1790, but did not know the size of it.

7th. Do you or do you not know at what time the actual possession of the aforesaid 520 acres, entered, surveyed, and patented in the name of John McIntire, was taken possession of by him, or those claiming under him? If so, state at what time said possession was so taken, and by whom.

Answer. In the year 1793 it was taken possession of by George Benaugh, under the claim of said McIntire, to the best of my recollection: at any rate, Benaugh was living on said claim as early as 1793.

8th. Has or has not the actual possession of the aforesaid claim of 520 acres been held and enjoyed by the said John McIntire, and those claiming under and by virtue of his claim, adversely to the claim of said Miller, more than twenty years before the institution of this suit, which was instituted in 1815?

Answer. It has.

9th. Has or has not the said John McIntire, or those claiming under him, occupied and held the actual possession of the said 520 acres, entered, surveyed, and patented in the name of the said John McIntire, under and by

virtue of the aforesaid claim, adversely to the claim of the said Miller, from the year 1792 or 1793 up to this time?

Answer. It has.

10th. Have or have you not any interest in the event of this suit?

Answer. I have not.

CALEB HALL.

I, William Rogers, one of the justices of the peace in and for the county of Bourbon, and State of Kentucky, duly commissioned and sworn, and acting as such, and by virtue of my said commission being one of the judges of the county court in and for said county, do certify that, at the request of the defendants, and pursuant to the dedimus hereto annexed, I caused the deponents in the foregoing depositions to come before me, at the house of Charles Talbott, in Millersburg, in said county of Bourbon, on the 18th day of June, 1827. The said witnesses were by me carefully examined, cautioned, and sworn, then and there to testify the whole truth. The interrogatories were then by me propounded: the said depositions, from pages 1 to 9 inclusive, were wholly reduced to writing by me in presence of said witnesses, then and there, and subscribed by them in my presence: that I am not counsel or attorney to either party, or interested in the event of this cause. All which I do certify to said court, as the cause and manner whereupon said depositions were taken.

Certified from under my hand and seal, this 21st day of August, 1827.

W. ROGERS, [SEAL.]

The deposition of John Curry, Esq , of lawful age, taken at the house of Charles Talbott, in the town of Millersburg, Bourbon county, Kentucky, to be read in evidence on the hearing of the suit in chancery, depending in the United States circuit court, Kentucky district, held in the town of Frankfort, wherein the heirs of Henry Miller, deceased, are complainants, and John and Jacob McIntire, &c., are defendants; who, being duly sworn, sayeth:

1st. Are or are you not well acquainted with the heirs of Henry Miller, deceased, formerly of the State of Virginia, the complainants in the abovenamed suit? If so, state how long you have been acquainted with said heirs.

I was well acquainted with the family of Henry Miller, deceased, of Augusta county, Virginia, prior to the year 1793. In the fall of said year my father and family moved to this State. I recollect having seen Henry Miller, jr.; he was a small boy in the aforesaid year; but have no recollection of ever seeing him since; nor do I recollect receiving any communication relative to his decease from any of the heirs of said decedent.

2d. By same. Has or has not Henry Miller, the youngest son of Henry Miller, deceased, departed this life, without leaving any heirs of his body, since the death of his father, and before the year of 1815?

As to the death of Henry Miller, jr., I have no personal knowledge, except from report; nor do I know in what year he died, although I have no doubt of his death having happened prior to the late war; and from the size of said boy when I saw him in 1793, suppose him to have been four or five years of age. And further this deponent saith not.

J. CURRY.

I, Charles Talbott, one of the justices of the peace in and for the county of Bourbon, in the State of Kentucky, duly commissioned, sworn, and acting as such, and by virtue of my said commission being one of the Judges

of the county court in and for said county, do certify that, at the request of the defendants, I caused the deponent in the foregoing deposition to come before me at the time and place stated in the caption, and that a notification of the time and place of taking said deposition was given to the
and that the said witness was by me carefully examined, cautioned, and sworn, then and there to testify the whole truth, and nothing but the truth; and that the said deposition, so far as the caption and questions, was wholly reduced to writing by me in the presence of the witness, and the answers was reduced to writing by the witness himself, and then and there subscribed by himself in my presence; and that I am not counsel nor attorney to either party, or interested in the event of the cause. All which I do certify to said court.

Given under my hand and seal, this 20th day of November, 1827.

CHARLES TALBOTT, *J. P. B. C.*

UNITED STATES OF AMERICA, *seventh circuit, Kentucky district*, sct.

I, John H. Hanna, clerk of the seventh circuit court of the United States of America in and for the Kentucky district, do hereby certify that the foregoing pages contain a full, true, and complete transcript of the record and proceedings in the cause therein mentioned.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, this 3d day of September, in the year of our Lord one thousand eight hundred and twenty-eight, and in the 53d year of American independence.

[L. S.] JOHN H. HANNA.

Know all men by these presents, that we, Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffett, and Hannah his wife, John M. Estill, and Martha his wife, and Henry Miller, and John Hildreth, are held and firmly bound unto Jacob McIntire and Isaac McIntire, in the penal sum of two hundred dollars; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents: sealed with our seals, and dated this 20th day of August, 1828.

The condition of the above obligation is such, that, whereas the above bound Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffett, and Hannah his wife, John M. Estill, and Martha his wife, and Henry Miller, have prayed for and obtained an appeal from the seventh circuit court of the United States of America in and for the Kentucky district, to the Supreme Court of the United States, in a certain suit in chancery, wherein the said Samuel Miller, &c. are complainants, and said McIntyres are defendants, in which a decree was pronounced in favor of said defendant—

Now, if the said Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffett, and Hannah his wife, John M. Estill, and Martha his wife, and Henry Miller, shall prosecute the said appeal with effect, or on failure thereof pay all costs which the said McIntyres may incur by reason of said appeal, then the above obligation to be void, else to remain in full force and virtue.

JOHN HILDRETH, [SEAL.]

Witness, JOHN H. HANNA.

A copy. Teste,

JOHN H. HANNA, *C. C. C. K. D.*

64.

To Jacob McIntyre and Isaac McIntyre.

Whereas an appeal has been prayed by Samuel Miller, John Lewis, and Rachael his wife, James Miller, William Miller, James Moffett, and Hannah his wife, John Estill, and Martha his wife, and Henry Miller, to the Supreme Court of the United States at the city of Washington, the present seat of the national Government, to reverse a decree of the seventh circuit court of the United States in and for the Kentucky district, pronounced at the May term, 1828, wherein the said Miller, &c. were complainants, and the said Jacob McIntyre and Isaac McIntyre were defendants;

These, therefore, are to cite and command you that you be and appear in the Supreme Court, in Washington, on the second Monday in January next, and then and there to be heard, if any thing you have to say, upon the said appeal.

Witness my hand, as Judge of the district of Kentucky, and one of the Judges of the seventh circuit court of the United States in and for the Kentucky district, this fifth day of November, 1828.

JOHN BOYLE.

A copy. Teste,

JOHN H. HANNA, *C. C. C. K. D.*